

**REPORT OF SPEAKER DARRYL PLECAS TO  
THE LEGISLATIVE ASSEMBLY MANAGEMENT  
COMMITTEE CONCERNING  
ALLEGATIONS OF MISCONDUCT BY  
SENIOR OFFICERS OF THE  
BRITISH COLUMBIA LEGISLATIVE ASSEMBLY**

January 2019

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**PART 1 – EXECUTIVE SUMMARY**

**A. INTRODUCTION**

1. As Speaker, I have duties in the House and I also have responsibilities for the overall administration and functioning of the Legislative Assembly. In the months after I became Speaker, I learned of a number of allegations, and personally observed or was party to numerous conversations or activities, which made me deeply uncomfortable with the conduct of the Clerk of the Legislative Assembly and the Sergeant-at-Arms, and with the impact it has had on the functioning and culture of the Legislative Assembly more generally.

2. Broadly speaking, the matters which gave me concern related both to certain specific conduct of the Clerk and the Sergeant-at-Arms, as well as the functioning and culture of the Legislative Assembly as a workplace more generally. As detailed in this Preliminary Report, what I have observed at this stage, and been informed of includes, but is not limited to, the following:

- flagrant overspending on luxurious trips overseas with questionable business rationales;
- expensing of all manner of personal purchases to the Legislative Assembly, totalling tens of thousands of dollars over a period of less than two years;
- inappropriate payouts of cash in lieu of vacation, which appear to total in the hundreds of thousands of dollars;
- lack of oversight or appropriate protocols in the awarding of employment benefits, and evidence of attempts to obtain highly questionable further benefits, collectively representing actual or contingent liabilities to the Legislative Assembly totalling in the millions of dollars;
- using working time to make day or overnight trips away from the Legislative Assembly, at the Legislative Assembly's expense, for what appear to be other than legitimate work purposes;
- instances where thousands of dollars of alcohol and equipment may have been misappropriated from the Legislative Assembly;
- various concerns relating to management of employees, including potentially retributive or otherwise unjustified terminations; and

- taking steps to conceal information which could indicate improperly claimed expenditures.

3. These matters are not simply bare allegations. They are based on my personal observations, interviews with others, and where I have been able to corroborate them with reference to documents and records I could access at the Legislative Assembly within the time constraints that I have been working under, I have done so. Because my inquiry has necessarily been preliminary in nature, before the Legislative Assembly makes final decisions about how to address these matters, a process will need to be put in place that considers them more fully by way of interviews of additional past employees and current employees (who have not been a focus of the review conducted to date), access to all relevant records from a broader timeframe, and which provides an opportunity for Mr. James and Mr. Lenz to respond.

4. Based on what I had seen and heard, I believed that there was a real possibility that crimes may have been committed and I felt obligated to bring those matters to the attention of the RCMP. As is widely known, there is an RCMP investigation under way. That investigation is being handled by the police and special prosecutors have been appointed to receive any report that the police make regarding potential charges. I am not a part of that investigation and I therefore don't know what exactly they are focusing on, what evidence they have obtained, or what stage they are at in their process.

5. Regardless of what happens in the criminal context, as a workplace and as a public institution, the Legislative Assembly needs to review and consider these matters, and determine whether it is more likely than not that conduct has taken place that is inconsistent with the duties of those involved and the reasonable expectations of the Legislative Assembly. The Legislative Assembly and its administrators must consider whether workplace discipline is warranted, and whether changes need to be made.

6. British Columbia taxpayers deserve a Legislative Assembly that is accountable, transparent, efficient, fiscally responsible, and fair to its employees. As I have set out below, from my own observations, the reports of witnesses, and a review of records, that is not what we have today. A full inquiry needs to be conducted into these matters and changes need to be made. That is why I have brought these matters forward.

7. I put these matters before the Legislative Assembly Management Committee ("LAMC") so that it can consider my recommendation for a full and proper inquiry into these matters. I have provided this report to committee members on an *in camera* basis so that LAMC can consider whether it is appropriate to discuss these

matters in a public meeting. In the meetings of LAMC in December 2018, Ms. Polak repeatedly demanded that the meetings of the Committee be held in public and that I present my information in public. I believe it is in the public interest to do that, though that must be balanced against the potentially competing considerations I refer to below. The matters that are the subject of my report are largely issues of expenditures of public funds and use of public resources by officers of the Legislative Assembly. While that information is not normally available to the public through the *Freedom of Information and Protection of Privacy Act* or accounting channels, it is information that relates to the same types of matters that are routinely discussed in public in relation to Members of the Legislative Assembly and all of our expenses are published online. I see no reason why the position ought to be different in relation to Permanent Officers. In my view, disclosure of the information will not compromise the work of the Legislative Assembly in any way, and I believe it is clearly in the public interest, as a matter of transparency and accountability, for taxpayers to understand the basis for the serious concerns identified in this report.

8. The only concern would be whether making the allegations public would be unfair to the employees or Permanent Officers, or be problematic for the police investigation. In my mind, the Legislative Assembly as employer and public institution is going to have to address these matters in any event, so waiting until after a criminal process concludes likely presents unacceptable delay, both for the public institution and the officers at issue. If the suggestion is that *any* release of the information in this report would interfere with the criminal process, that raises the prospect that the Legislative Assembly, as employer, will not have an opportunity, perhaps for years, to consider whether the Permanent Officers should remain on administrative leave with pay. Similarly, it may prevent the Legislative Assembly from fully examining what has occurred and making timely and appropriate changes to accounting and employment practices. It is entirely normal to have concurrent workplace and criminal investigations. It seems to me that the police investigation is being handled separately and the charge approval decision is going to be considered by highly experienced special prosecutors who will base their decisions solely on information that is appropriate for such a decision.

9. Similarly, the process and decisions made by the administration of the Legislative Assembly, in the best interests of the institution, should be separate and distinct from the criminal process. If charges are approved or a judgment made by a Court, obviously those would be events that would have some bearing upon the Legislative Assembly's employment of the Clerk and Sergeant-at-Arms, but otherwise, and in the meantime, the police and criminal process should be entirely separate from what LAMC must address.

10. As of the date this Preliminary Report has been transmitted to LAMC members:

- (a) It has not been suggested to me by anyone that there is any reason why LAMC members should not be provided with the Preliminary Report, in full;
- (b) I have transmitted this Preliminary Report to LAMC members subject to a number of cautions and restrictions designed to avoid it being transmitted more broadly, pending further discussions;
- (c) I note that the police and the special prosecutors have different duties: the former are tasked with conducting an investigation, following which they may or may not recommend one or more charges to the special prosecutors as representatives of the Attorney General. I have been advised by counsel that:
  - (i) the special prosecutors do not wish to receive this Preliminary Report and will not take any position as to whether or to what extent it should or should not be made public; however,
  - (ii) the police *may* be retaining legal counsel who *may* provide a view as to whether, from the police's perspective, they consider that public disclosure of these matters may impact their investigation, and to what extent.
- (d) If the police do provide a perspective, I will invite LAMC to discuss that *in camera* at its next meeting. Clearly, any perspective voiced by the police must be taken into account by LAMC – but equally, that perspective cannot be assumed to be determinative. The Legislative Assembly continues to have responsibilities as an employer, and cannot be dictated to by outside institutions. The Legislative Assembly is a unique employer. While in a corporate setting, managing parallel workplace and criminal inquiries can often be done discreetly, in the public context, there are different considerations. Where the matters concern Permanent Officers whose employment status can only be determined by the Legislative Assembly as a whole, which can only meet publicly, a different analysis may be required.

11. For the reasons above, I intend to recommend to the Legislative Assembly Management Committee that:

- (i) with members having received the Preliminary Report on a confidential, *in camera* basis, the portion of the LAMC meeting on January 21, 2019 that discusses this matter be conducted, at least initially, *in camera*;
- (ii) at that meeting, members consider whether and/or to what extent the Preliminary Report should be made public, for example, in whole, in whole with redactions, in part, or not at all – taking into account any new information received since the time the Preliminary Report was made available to them. My own view is that, absent any compelling evidence that release of the information herein would significantly undermine the criminal process in some way, the Preliminary Report ought to be released. I believe there is a compelling public interest in the matter. I also note that the Clerk and Sergeant-at-Arms have held a news conference and said that they have no idea what is at issue and that they want to know. However, I am not trying to control the process going forward: I am providing members with all that I know and what I think should happen, and in light of that, I believe it is a decision for LAMC to make as to how to proceed in the best interests of the Legislative Assembly.

12. I want to be very clear that, as of today, no decisions have been made, either about the employment status of the two suspended House Officers, or about changes to the way the Legislative Assembly functions as a workplace more generally. The process to date has been about identifying issues of concern, determining whether those are substantive enough to warrant further inquiry, and based on this Preliminary Report, LAMC must now consider what form and scope that further inquiry should take.

**The Hon. Darryl Plecas**  
**Speaker of the Legislative Assembly of British Columbia**  
**January 2019**



## PART 2 - HOW MY CONCERNS DEVELOPED

### A. BACKGROUND

13. I began my work as Speaker of the House on September 8, 2017. The second session of the 41st Parliament commenced in the afternoon on that day, and the Legislature remained in session until November 30, 2017. During that period, my attention was largely focused on the proceedings of the House and learning how to perform the role of Speaker.

14. In addition to managing the House, the Speaker also has administrative responsibilities within the Legislative Assembly and would normally look to the Directors of each department (which include Financial Services, Sergeant-at-Arms, Hansard, the Library, the Kitchen, and so on) for guidance on how they ordinarily operated and what they needed from the Speaker in terms of support. Early on, however, Craig James, the Clerk of the House, explained to me that I should go through him if I wanted information about the other divisions of the Legislature; he would be the conduit and take care of any liaising that needed to be done. I have since been told that, at the same time he was telling me to go through him if I wanted anything from different departments, Mr. James was discouraging Directors from talking to me directly, and directed that they should go through him. I didn't follow Mr. James' advice, and over time, I made connections with Directors and other staff in the Legislature.

15. Although initially my attention was primarily focused on the proceedings of the House, there were some aspects of my new trappings which I immediately found to be surprising. On my first day as Speaker, I was being shown around my new office by the executive assistant to the Speaker who had worked there for many years. There was a jug of water, a bucket filled with ice and fresh flowers sitting on a cabinet and I was advised that the water and ice would be refreshed twice a day and the flowers replaced every other week. I opened the cabinet and saw that it was full of liquor. Looking at the bottles, I recognized one of them and remarked, "gee, that's an expensive bottle of scotch." My new assistant said, "Mr. Speaker, you can have any kind you want if that is not good enough". Later that evening I looked in the cabinets outside my personal office in the main area and discovered that there were two more cabinets also filled with liquor. It had been my previous experience that the government does not pay for alcohol for staff or Members' personal consumption, so this was surprising to me.

### B. LIFE INSURANCE REQUEST

16. I have heard that many Speakers find their first session to be a blur, and that was certainly my experience. As I got up to speed with running the business of the

House, I was also trying to learn about the administrative side of the Legislative Assembly, the working culture, and where the Speaker fits in. I realised there was a lot I didn't know, and I relied on the Clerk and other staff to help advise me in that respect.

17. In approximately the first week of November 2017, Mr. James came into my office with two pieces of paper. On each was a typed-out paragraph. One of these related to a life insurance benefit for him. He said he needed my signature as confirmation that he was entitled to a life insurance policy in the amount of three times his annual salary. He explained that everyone else at the Legislature had life insurance and that it was something he was entitled to receive. The other paper related to salary and benefits (including life insurance) for the Sergeant-at-Arms, Gary Lenz.

18. The Clerk knew better than me the protocols, so I trusted and assumed that, because these potentially represented significant liabilities for the Legislative Assembly, they were benefits that had previously been signed off by the Legislative Assembly Management Committee ("LAMC") and the Department of Financial Services, and I assumed the costs were in the Vote 1 budget. Consistent with that assumption, the request was presented to me as a matter of confirming something that was already happening – rather than a significant new change I was approving. Accordingly, I signed the pages with the draft language on it as Mr. James had asked and he took the papers away with him.

### **C. CONVERSATION WITH MR. LENZ**

19. The routine that developed when the House was in session was that Mr. James would come into my office at 9:00 a.m. most days and discuss the agenda for the day. Mr. Lenz would also visit my office once or twice a day, usually with a cup of coffee, and he would sit in my office and talk. I was generally trying to be friendly with people and learn about how the Legislative Assembly operates.

20. Around that time, an issue had arisen in the House where I had directed Members not to call each other names. A Member had alleged in the House that I didn't have the authority to make a particular direction. A ruling was required and was in the process of being prepared, and Mr. James gave me some advice about when to deliver the ruling that I didn't think was suitably impartial for my role as Speaker.

21. I mentioned this to Mr. Lenz during one of his visits to my office, because it was on my mind and because, as a Permanent Officer of the House, I expected the Sergeant-at-Arms might have an informed view about protocol. In the course of his response, Mr. Lenz expressed the view that Mr. James was not impartial and that he was in fact very close with the BC Liberal party. Before I became Speaker, that was not something that I had heard before, so I determined to reserve judgment on that subject;

however, this was the first time Mr. Lenz had said something to me that indicated he was not entirely aligned with Mr. James' views and conduct. Mr. Lenz added that I should not trust Mr. James.

**D. FIRST TRIP TO THE UK**

22. A few weeks into my first session, Mr. James told me that when the session ended in December, he, Mr. Lenz and I needed to go to the United Kingdom for various meetings, including one with MI5 (the UK's Security Service), as well as to procure an official Speaker's hat for me. He told me that his office was arranging everything.

23. Accordingly, in early December, Mr. James, Mr. Lenz and I went to the UK for ten days. We left on a Friday and landed in London on Saturday morning, with our first meeting apparently scheduled for Sunday, but shortly after we arrived, I was told by Mr. James that something had happened such that there was no meeting on Sunday, so we had the weekend free.

24. Our accommodation was the Park Plaza Westminster Bridge, a very expensive hotel across the river from Big Ben and the Houses of Parliament.

25. In the next few days, we had a series of meetings which all seemed to be of a "meet-and-greet", introductory nature. On Monday, December 4, we met with a gentleman that Mr. James and Mr. Lenz knew from MI5. The meeting lasted less than an hour and did not seem to me to be the kind of conversation that required an in-person meeting. In the evening, Mr. Lenz and I had dinner at the Royal Air Force Club with a retired MI5 member and his wife, and a gentleman from Scotland Yard. The dinner discussion was purely social.

26. While in London, we attended Ede & Ravenscroft, which is a historic and expensive store that makes ceremonial robes for parliamentary officers, members of the House of Lords, and the legal profession, but also sells a wide variety of suits and formal wear for men as well as more casual men's clothing. There we ordered a new Speaker's hat, but while we were there, Mr. James and Mr. Lenz browsed in the rest of the store.

27. We returned to that store a second time and Mr. James tried on various suits. He and Mr. Lenz purchased various items and asked the store to ship them back to Victoria. While there, Mr. Lenz quipped to me that it was all "part of the uniform", which I suspected was an implication that they intended to expense all of the items to the Legislative Assembly. I have since confirmed that what Mr. James and Mr. Lenz

purchased included a navy-coloured suit and cufflinks, which were in fact expensed to the Legislative Assembly.<sup>1</sup> The suit cost £662.50, or \$1,157.26.

28. We also visited the Houses of Parliament Gift Store at Westminster Palace and there Mr. James and Mr. Lenz purchased souvenirs, scotch, stationary, and other things. I have since confirmed that they expensed those items as well, other than the alcohol.<sup>2</sup>

29. On Wednesday, December 6, we flew to Edinburgh, Scotland. Again we were lodged in an expensive hotel. We went shopping at the Scottish Parliament gift shop where Mr. Lenz commented that he needed to purchase a gift for his wife, and then proceeded to purchase cufflinks, a women's brooch, a trinket box, a tie and a scarf. I have since learned that all of those items were expensed to the Legislative Assembly, under the heading of "miscellaneous uniform items", at a cost of \$160.13.<sup>3</sup> The brooch cost £19.55 (\$33.63). We visited the Scottish Parliament and met for the day with some people there about "business continuity", which refers to how an organization remains functional through a crisis or disruptive event.

30. Two days later, Mr. James had arranged for a vehicle and driver from a limousine company to take us to the town of St. Andrews for the day, where we went to the gift shop at the famous St. Andrews golf course. Mr. James described this to me as a "cultural day learning about Scotland."

31. After a few days in Scotland, we travelled back to London by train, and spent a day there before flying home. Mr. Lenz, however, discovered he had left his passport in Edinburgh, which he remedied by taking the train back to Scotland, and then taking a one-way flight back to London the next day, before we all returned to Canada.

32. When we were preparing to fly home, I commented that I had bought quite a bit of scotch and that it was likely to cost me a fair sum in duties. Mr. James replied along the lines of, "do as I do – don't declare anything". I didn't take that advice, and I was struck by the brazenness of that comment.

33. Throughout the trip, I was very surprised at how luxuriously we were travelling and how little we were doing for a work trip. However, I did not take an issue with it at the time because I was still new to the Speaker's job and did not want to

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<sup>1</sup> Exhibit 27.

<sup>2</sup> Exhibit 6 at pp. 3-7 and Exhibit 8.

<sup>3</sup> Exhibit 8 at pp. 1 and 8.

alienate these key officers by making it seem like I was second-guessing them or questioning what appeared to be their standard practice.

**E. HIRING ALAN MULLEN INTO A FULL-TIME POSITION**

34. In approximately December 2017, I learned that as Speaker it was within my budget to employ a special advisor. Past Speakers have had at least one special advisor of their own choosing. Because I was finding the Legislature an unusual place and I was feeling uncertain about who I could trust, the prospect of having an advisor of my own choosing was attractive.

35. I first met Alan Mullen when he worked for Corrections Canada and served as a prosecutor of alleged offences within the prison system. I served as a federally-appointed prison judge and tried a large number of cases each year that Mr. Mullen was involved in. I came to know him as a trustworthy and competent person, and we became professionally acquainted and stayed in touch after our work in the prison justice system ended.

36. Alan was interested in political issues and when I agreed to run for office in 2013, he helped me with my campaign. In approximately the fall of 2017 he began working for me part-time in my constituency office in Abbotsford.

37. In January 2018, I asked Alan if he would serve in a “Special Advisor” capacity and work with me from Victoria. He agreed. One of the complexities of the role of Speaker is that the impartiality required of the role means that the Speaker is not able to advocate for and lobby Ministers on behalf of constituents the way other Members can. Part of Mr. Mullen’s duties was therefore to handle and advance issues in Victoria raised by my constituents in Abbotsford. He also assisted me with various other duties in Victoria as requested.

**F. FURTHER CONVERSATIONS WITH MR. JAMES AND MR. LENZ**

38. The third session of British Columbia’s 41<sup>st</sup> Parliament began on February 13 and ran until May 31, 2018. One day in approximately March, Mr. James, Mr. Lenz and I were talking about arrangements Mr. James was making for us to participate in a “training” exercise with MI5 in England. I commented that I had better make sure my security clearance was up to date. When I served as the RCMP Research Chair I had held a “Top Secret”-level security clearance, and I wasn’t sure if it had expired. Mr. Lenz mentioned to Mr. James that he would have to obtain a security clearance for the exercise. Mr. James then asked us if we knew how many years back the security checks go for a security clearance and what sorts of things the authorities looked for.

That remark was curious to me, and made me wonder why he asked. To my knowledge he never applied for one.

39. In one of Mr. Lenz's subsequent visits to my office, our conversation about the security clearance came up. I then said to Mr. Lenz that I was surprised that Mr. James had seemed worried about his security clearance. Mr. Lenz said that he was also surprised by that remark, and volunteered again that he thought Mr. James was dishonest. This was a striking comment to me because I had thought Mr. Lenz and Mr. James were closely aligned and friendly.

**G. RETIREMENT ALLOWANCE**

40. In approximately late March or April, Mr. James came into my office at about 9:00 a.m., holding a piece of paper that he put before me and said words to the effect of, "I need you to sign this retirement allowance". The paper had one paragraph and was otherwise blank, i.e. it was not on letterhead; the paragraph proposed a transition payment for executives who worked for more than ten years at the Legislature and thereafter resigned. In such event, the Legislative Assembly would have to pay the equivalent of 12 months' salary to the retiring employee (in Mr. James' case, this would potentially amount to more than \$300,000, on top of his sizeable pension). My recollection is that the document provided to me named this allowance as applying to the Clerk, the Sergeant-at-Arms, and the Executive Financial Officer, Hilary Woodward.

41. I was shocked to be presented with this request directly and so abruptly, as it was a significant liability, there was no apparent justification for it, and it would have to be cleared with LAMC and the Finance and Audit Committee, as Mr. James well knew. I knew it hadn't been cleared with those committees because I had been sitting on them for the past seven months and we had not discussed anything of the sort.

42. In the moment, I thought that if I declined the request, Mr. James would leave with the piece of paper and I would lose any evidence that this inappropriate request had been made. As a result, I decided to sign it so that Mr. James would not dispose of the draft, and I resolved to later rescind the benefit, which is what I did (see *para. 69 below*) – on the rationale that if I had unilaterally signed off on something, I could presumably unilaterally rescind it. Mr. James subsequently provided me with a document on my letterhead dated April 9, 2018, addressed to him, which included the text referred to above and my signature.<sup>4</sup>

43. After he left, I asked the Deputy Clerk, Kate Ryan-Lloyd, if she could meet with me in my office. I said words to the effect of, "I can't believe what Craig James just

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<sup>4</sup> Exhibit 30 at p. 1.

asked me to sign". I then explained it to her and said that I didn't see her position included, but that Mr. Lenz's and Ms. Woodward's positions were named.

44. Ms. Ryan-Lloyd replied, "I can't believe he's doing it again". She then explained to me that in 2012, Mr. James had received a \$257,000 benefit that was characterized as a "retirement allowance". She said that a group of executives received smaller amounts at that time, including her, based on some programme established decades earlier for senior House Officers. However, she didn't believe it was appropriate and told me that she repaid the amounts allocated to her. I have since confirmed her statements and looked further into the issue. It is discussed below and copies of the relevant documents are exhibited.<sup>5</sup>

45. I then said to Ms. Ryan-Lloyd that from all I had witnessed, Mr. James seemed to doing a number of things that appeared to me to be inconsistent with proper process.

46. What followed was a lengthy conversation in which she disclosed to me her own misgivings about Mr. James' conduct. Among those were his travel expenses, the way he took cash payments in lieu of his allotted vacation time, her suspicions about work that he was doing for a period of time with the World Bank and her questions about how those expenses were being paid.

#### **H. APPOINTING THE CLERK A "COMMISSIONER"**

47. On April 25, Mr. James asked me to sign a document that appointed him as a "Commissioner" for the purposes of updating Parliamentary Practice in British Columbia, a book that was first written by George MacMinn Q.C., Mr. James' predecessor as Clerk of the House.

48. Although I did not know why this was necessary, I also did not understand there to be any particular significance to this request. I was also not aware that, prior to his request, Mr. James had already made another trip to the UK in February 2018, at a cost to the Legislative Assembly of more than \$14,000, for the ostensible purpose of meeting with the editors of another textbook on Parliamentary Practice.

#### **I. FURTHER DISCUSSION WITH MR. LENZ**

49. In approximately late May 2018, I was talking to Mr. Lenz and he recounted to me another matter involving Mr. James: that in the summer of 2013 there was an incident where the Clerk had (according to Mr. Lenz) instructed three legislative

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<sup>5</sup> See paras. 138 - 153 and Exhibit 17.

employees to load his pick-up truck with more than \$10,000 worth of liquor that had been purchased by the Legislative Assembly. Mr. Lenz said Mr. James subsequently returned for a second trip and loaded more liquor, along with a Legislative Chamber desk, chair and various personal items belonging to Bill Barisoff, whose term as Speaker had recently come to an end. Mr. Lenz said he had been told by others that Mr. James was going to deliver those items to Mr. Barisoff's house in the Okanagan.

50. Mr. Lenz also told me that he was concerned that following the resignation of Christy Clark as Premier, the Facilities Manager had asked Mr. James what to do with a variety of items that were in the Premier's vault. Mr. James had apparently gone to inspect the vault with the Facilities Manager, removed some coins and a scroll which he commented were very expensive, and directed the rest of the items from the Premier's vault to be placed into the Clerk's vault. Mr. Lenz told me he had suspicions that Mr. James had taken the coins and the scroll from the Legislative Assembly for his own purposes.

51. I said that it seemed to me there ought to be a proper forensic audit of Legislative Assembly's inventory and expenses or perhaps a police investigation. Mr. Lenz replied, "we do not want an audit; the last thing we want is an audit and we don't want to get outside police involved." I found that comment troubling.

52. Mr. Lenz went on to propose how he thought Mr. James should be removed from office. He said words to the effect that what was needed was to "build a case on certain issues", that I would then present to Mr. James and cause him to realize that he could face serious consequences. Mr. Lenz proposed that the suggestion would then be made to Mr. James that he should "go quietly" and resign. In the alternative, Mr. Lenz suggested that I could ask the Premier to tell Mr. James that his services were no longer required because the government was "moving in another direction", and Mr. James could then, "leave on a high note, with a huge payout and a retirement party, all of which would allow us to avoid an audit and any investigations". I said I would have to think about it, but what I was actually thinking was that it was looking more and more like the Legislative Assembly needed an audit and an investigation.

53. After this conversation, Mr. Lenz approached Mr. Mullen or me on almost a daily basis for weeks, asking whether we had spoken with the Attorney General and/or the Premier about Mr. Lenz's proposal to force Mr. James to resign quietly. Mr. Lenz continually repeated that "we don't want an audit and we don't want outside police involved".



**J. DISCUSSIONS WITH THE DEPUTY SERGEANT-AT-ARMS**

54. Next I spoke with the Deputy Sergeant-at-Arms, Randy Ennis, as Mr. Lenz had instructed him to meet with Mr. Mullen and me so we could ask him about some of the events and incidents we had spoken with Mr. Lenz about.

55. Mr. Ennis confirmed that he knew about the incident with the alcohol and Mr. Mullen and I heard him to say that he had observed it directly. He described it as a “theft” of liquor and he said, “I’m going to lose my job over this one”. I asked that he put the account in writing for me and he agreed to do so. (Some days later he did provide me with a report, but in it he wrote that he didn’t witness the event directly and instead only heard about it. He did, however, identify three Legislative Assembly staff who were said to have assisted loading the truck.<sup>6</sup>)

56. Mr. Ennis then said words to the effect of, “that’s nothing, what about the wood splitter?” Mr. Ennis proceeded to tell us that a wood splitter had been purchased by the Legislative Assembly at the request of Mr. James, and was supported by Mr. Lenz. Mr. Ennis said the wood splitter never arrived at the Legislative Assembly, and instead was taken directly to Mr. James’ personal residence where Mr. James and Mr. Lenz were using it to split firewood.<sup>7</sup> Mr. Ennis’ view was that there was no legitimate rationale for the Legislative Assembly to have purchased a wood splitter for emergency purposes or otherwise.

**K. TRIP TO CHINA**

57. From June 9 - 17, 2018, Mr. James, Deputy Speaker Raj Chouhan and I flew to Hong Kong from Vancouver and visited that city and also the Chinese cities of Guangzhou, Shenzhen and Dongguan which are clustered to the north of Hong Kong in Guangdong Province. I was uncomfortable at that point in going on another trip with Mr. James, but it would have been difficult to back out at that point with all the arrangements having been made so I decided to go and make further observations.

58. The purpose of the trip was to sign a letter of intent to conduct goodwill exchanges between the B.C. Legislature and the Standing Committee of Guangdong Provincial People’s Congress. The travel arrangements were made by Mr. James’ office and were very comfortable. We flew business class both ways and stayed in luxurious hotels. We had some meetings with officials and signed the letter of intent.

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<sup>6</sup> Exhibit 29.

<sup>7</sup> See further paras. 172 - 176 below, and Exhibit 21.

59. On business trips, officials are permitted to claim a “per diem” for meals which are not otherwise provided by hosts. A per diem amount is a daily allowance that the Legislative Assembly pays to reimburse our food expenses while travelling. The amount is pegged to a standard established by a federal agency, and at the time of that trip, the “full” per diem for a trip to China – that is, claiming for all three meals, plus a rate payable for “incidental” expenses – was generally over \$200 per day (although it varied slightly depending on the area visited). On our way home, I noted to Mr. James the five meals that I had kept track of as being provided by the Chinese government and said we should not be claiming full per diem amounts for those days. Mr. James put one hand over his eye, looked at the Deputy Speaker and said in a joking tone, “we didn’t get any free meals here, it was full per diems”. Mr. Chouhan and I were surprised by the flippant nature of this comment. My executive assistant, Heidi Scott, later went to the Clerk’s office to confirm that we were not going to claim for them. I have since reviewed the expense claims and learned that Mr. James did in fact claim full per diems for the whole trip notwithstanding there were meals provided by our hosts and other meals that we hosted and which were separately expensed to the Legislative Assembly.<sup>8</sup>

60. At the Hong Kong Airport, Mr. James went off for a while and returned with a large piece of expensive-looking luggage. He then opened the luggage bag that he had brought with him, took out a t-shirt and put it in the new piece of luggage, zipped it up and checked it onto the flight. As discussed below, he later claimed the luggage from the Hong Kong airport as an expense to be reimbursed from the Legislative Assembly. It cost \$1,138.34.<sup>9</sup>

## **L. LETTER FROM A WHISTLEBLOWER**

61. Meanwhile, Mr. Mullen had been communicating with a former Legislative Assistant, who I will call AB. AB worked for several MLAs in the Official Opposition starting in February 2018 and one of AB’s tasks was to submit their expense claims. Over time, AB advised Mr. Mullen that he believed one of the MLAs was requiring AB to submit improper expense claims. AB had raised the claims of the MLA’s which he believed were improper with that MLA, and was told to submit them anyway.

62. Without telling Mr. Lenz AB’s name, Mr. Mullen mentioned to Mr. Lenz that a witness had reported some improprieties in the recording of MLA expenses. Mr. Lenz was very interested in the matter and asked Mr. Mullen repeatedly over time about whether Mr. Mullen had confirmed AB’s information. Then AB reported that on May 31,

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<sup>8</sup> Exhibit 5.

<sup>9</sup> Exhibit 6.

2018, he was terminated from his position, ostensibly for “budget concerns”, but that another person was hired into AB’s position soon after AB was fired. AB believed he was fired for refusing to do something that he thought was unethical, and he was upset about that.

63. Mr. Mullen then asked AB if he would be willing to speak with Mr. Lenz about the matter. AB agreed and an interview was arranged for him to meet with Mr. Lenz, Mr. Ennis and Mr. Mullen on June 13, 2018 at 1:15 p.m. At the interview, which was conducted mostly by Mr. Ennis, AB explained his concerns, answered questions and provided a written statement. AB’s concerns were that mileage claims were being made for trips the MLA had taken by taxi, and full day per diems were claimed when meals had been provided by hosts that the MLA was meeting with. Mr. Lenz remarked that he thought a forensic audit was needed as there was “RPG” (which is police jargon for “reasonable and probable grounds”).

64. At around 5:00 p.m., Mr. Mullen received a phone call from Mr. Lenz and was told that he and Mr. Ennis had “pulled the expense claims from Finance and there was nothing there” and that while he could see how AB might think there was a problem, it was “explainable”. Mr. Mullen asked if there were any claims for mileage and taxi fares for the same trip, and Mr. Lenz replied that there were “one or two, but the rest were explainable.”

65. Meanwhile, between approximately 4:00 p.m. and 5:00 p.m. Pacific time, it was the morning in China and I was having breakfast with Mr. James. Mr. James spoke to me about the investigation of AB’s information. He said words to the effect of, “I spoke with Kate and told her to rein Gary in and put a stop to this, otherwise we will all wear it”.

66. In a letter dated June 18, 2018, AB wrote to me and explained that Mr. Ennis had phoned AB that day and reported that AB’s concerns had been investigated and were not substantiated. AB had questioned how that could be the case since AB had submitted the expense claims. AB said he did not receive answers that made any sense.

67. When I spoke with Ms. Ryan-Lloyd on June 20, I asked her if Mr. James had contacted her about AB’s information while he and I were overseas. She replied that he had not. She also said that on that same day, June 20, Mr. James had gone to Vancouver for the day to meet with Geoff Plant about how to “rein in Gary and ensure he wouldn’t be conducting investigations in the future”. I have since seen a travel expense form submitted by Mr. James in which he claimed for a trip to Vancouver on

June 20 to meet with Geoff Plant and Paul Barbeau, and paid for a lunch at the Marriot that he later expensed to the Legislative Assembly.<sup>10</sup>

68. I felt the whole matter was troubling. As to the substance of the complaint, the Executive Financial Officer told me that she reviewed the matter, and agreed that there was cause for concern, which she proposed to deal with by speaking to the MLA informally. But more broadly, I was uncomfortable with Mr. James' suggestion that, if the matter came to light, it would have broader negative ramifications, together with his claim to have suppressed an internal investigation into a genuine issue raised in good faith by a concerned employee.

**M. RESCINDING THE RETIREMENT ALLOWANCE**

69. On June 26, I spoke with Mr. James and told him that I would be rescinding the retirement allowance benefit for him and the other officers listed. Mr. James later sent me an email with suggested language for the letter. His email implicitly acknowledged that it wasn't an existing benefit.<sup>11</sup> I then had a letter prepared to that effect, signed it and provided it to Mr. James.<sup>12</sup>

**N. SECOND TRIP TO THE UK**

70. My second trip to the UK took place from August 1 - 13, 2018. Also on the trip were Mr. James, Mr. Lenz and their wives. The primary purpose of the trip was to observe an anti-terrorism exercise conducted by MI5. It had again been arranged by the Clerk's office. Prior to leaving, Mr. Lenz said repeatedly to me that he felt there was no legitimate basis whatsoever for Mr. James to go to the exercise, as he did not have security responsibilities. He said that he thought the only reason Mr. James was going was because Mr. James' son lives in London and so he and his wife were really just going on a holiday. I was reluctant to go on this trip because of my concerns about Mr. James and Mr. Lenz. I took advice from others on the matter and it was suggested that, rather than risk offending our contacts in the UK by cancelling, it would be more useful to go, participate in the meetings and exercise that had been booked, and see if I could confirm whether my observations from previous trips about how they travelled were isolated incidents or part of a consistent pattern.

71. I left Canada on the evening of Wednesday, August 1, arriving in London on Thursday morning, August 2. Mr. James and his wife had arrived the day prior. They

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<sup>10</sup> Exhibit 12 at p. 77.

<sup>11</sup> Exhibit 30 at p. 3.

<sup>12</sup> Exhibit 30 at p. 4.

had flown direct from Calgary, where they were visiting one of their children. Mr. Lenz also arrived separately and we all met up on August 2 at the hotel we had stayed at before – the Park Plaza Westminster Bridge. To my recollection, we had one meeting in the four days that we were in London.

72. Two events worthy of note occurred in London. First, on one afternoon, Mr. Lenz, Mr. James and I returned to the men's clothing store, Ede & Ravenscroft, where my hat had been purchased. Mr. James and I each decided to buy the same grey suit, which we did. They each cost approximately \$1,000. I paid for my suit separately. When Mr. James was at the till, Mr. Lenz was there as well and he quipped to Mr. James, "part of the uniform". After we left the store, Mr. James said to me that I should provide him with the receipt because they would claim the suits as part of the Legislative Assembly budget for "uniforms", which they were plainly not. I said that I would be paying for mine. After we returned to British Columbia, Mr. James asked me on at least two more occasions to submit the receipt, which I did not do. I have since reviewed the expense claims and see that Mr. James claimed his suit as an expense and also wrote on the receipt that the suit he purchased was black rather than grey, presumably to support a claim that it was part of his Legislative Assembly attire (which is a gown, vest, black-striped or grey-pinstriped pants, and tabs; not a suit).<sup>13</sup>

73. A second episode that troubled me was when the three of us were in the Houses of Parliament Gift Shop at the Palace of Westminster. I was looking at the watches with Mr. Lenz and commented, "those are nice watches", and he replied to me wryly, "part of the uniform". Mr. James and Mr. Lenz purchased some items from the store, but I didn't see what they were. After we returned to British Columbia, I found an attractive watch on my desk that said "House of Commons" on it, which was clearly from the gift store at Westminster. I did not ask for this "gift", nor did I ask, or permit, Mr. James to claim for reimbursement for the expense of this watch, which it appears he did.<sup>14</sup>

74. On Monday, August 6, we travelled to a town called Ettington, which is an approximately two-hour drive from London. The exercise with MI5 was held near there, and we attended that on the Tuesday and Wednesday.

75. On Thursday, August 9, we were scheduled to stay in York. Mr. Lenz, Mr. James and their wives travelled to York on their own and I made my way there separately, travelling by train via Cambridge (at my own expense). In York, we had a one-hour meeting on Friday, August 10 with some officials at a college. Mr. James

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<sup>13</sup> Exhibit 2 at pp. 34-36.

<sup>14</sup> Exhibit 2 at p.28.

referenced the purpose of the meeting as relating to “business continuity”, which seemed to be the heading for many of our meetings. I don’t mean to be critical of our hosts, but the information we received was very general in nature and was information that was readily available to the general public.

76. Mr. James and I returned to London on August 11, and I flew home on August 13. Mr. James and his wife flew to Calgary. Mr. Lenz and his wife parted ways with us in York and travelled to Edinburgh and Glasgow. I have since seen expense claims showing that Mr. Lenz attended at the Scottish Parliament on August 14 and then travelled to Glasgow, stayed overnight, and flew out on August 15. He claimed full per diems for both additional days in the UK.<sup>15</sup>

**O. CONVERSATION WITH MR. JAMES BACK IN BC**

77. Back in British Columbia, I spoke with Mr. James and he asked when I was going to submit my bill for the Ede & Ravenscroft suit. I said I wasn’t going to do that, but I didn’t want to alarm him, so I added something to the effect of me being a public figure and that my expenses are undoubtedly scrutinized by the Members of the Opposition. He replied that I shouldn’t worry. He said that if they took issue with my expenses, he could put an end to it because he had “so much dirt on the Liberals” and that he could threaten to “stop paying their legal bills” or “quit paying their severance payments”. I don’t know what he was talking about, but it seemed an unusual comment.

**P. DISCUSSION WITH MS. WOODWARD**

78. After I returned, I asked Ms. Woodward if she had received the letter by which I rescinded the retirement allowance, as I wanted to make sure she had a copy for her office’s purposes. She advised me that she had not been provided with it and did not know about it. I asked her if she had a copy of the letter and she did, producing for me a copy that had been stamped and certified as a true copy by a lawyer.<sup>16</sup> I do not know why a copy of that letter had been certified.

**Q. ADDITIONAL EMPLOYEES COME FORWARD**

79. On August 24, I was alerted to correspondence that a former employee of the Legislative Assembly had written to the Premier in December 2017, complaining about being terminated without cause along with some other employees. The circumstances described were concerning and emphasized the lack of protections and

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<sup>15</sup> Exhibit 3 at pp. 1, 2, 6, and 9.

<sup>16</sup> Exhibit 30 at p. 2.

recourse for Legislative Assembly employees. The matter had been given to the Minister of Labour to address and eventually, on August 24, the office of the Minister of Labour gave it to me and asked me to handle it.

80. Obviously I was mindful that the evidence of a former employee should be approached with some caution as there are often two sides to the story and the employee may have an axe to grind. At the same time, I was mindful that such a complaint letter should not be summarily disregarded on that basis.

81. Around the same time, I received information from some other former employees disclosing information about the conduct of the Clerk and Sergeant-at-Arms. I asked Mr. Mullen to speak with them and report back to me from time to time as to what he was hearing. He did that and the information that he gathered was very troubling in many respects and many of the issues raised were common among the people who came forward.

**R. TRIP TO RICHMOND, VIRGINIA**

82. From August 26 - September 2, I attended the annual National Legislative Services and Security Association training conference with Mr. Lenz in Richmond, Virginia. Mr. Lenz had requested that I attend and speak at the conference. He said he was going to be speaking as well. He said that Alan Mullen should attend given that he had a security background and was working closely with me at the Legislative Assembly. Mr. Ennis, the Deputy Sergeant-at-Arms, also attended.

83. As it turned out, Mr. Ennis' wife and Mr. Lenz's wife and daughter travelled with them to the conference. The conference was four days. The subject matters of the conference were varied. Mr. Lenz gave a presentation on Guy Fawkes, the man who attempted to blow up the British Parliament in 1605. I spoke on leadership in government.

**S. MEETING WITH THE RCMP**

84. Mr. Mullen and I met with the RCMP on September 27, 2018, and in that meeting, we outlined concerns that we had about Mr. James and Mr. Lenz.

**T. PROPOSED TRIP TO AUSTRALIA**

85. Around this time, in late September or early October, Mr. James told me that he was planning a trip to Christchurch, New Zealand, at the end of January to learn more about disaster response and business continuity. He said that he also wanted to visit Melbourne. He suggested I come on the trip and I replied in a non-committal way that I did not think my schedule would allow me to go.

86. I asked him who else was going and he replied that one attendee would be the Deputy Minister responsible for emergency preparedness. That proposal seemed odd to me because the Deputy Minister was retiring at the end of January, and therefore it didn't make much sense for her to learn more about business continuity at the Legislative Assembly's expense.

87. I asked what he was planning to do in Melbourne and he said he would arrange some meetings to talk to people there about proportional representation. He added that he would "take the Auditor General and the Director of Finance for cover."

**U. WHERE IN THE WORLD DO YOU WANT TO GO?**

88. In the fall of 2018, Mr. Lenz continued to confide in Mr. Mullen and me about his views on removing Mr. James, and he appeared intent on strengthening his connection with us in various ways.

89. On October 25, 2018, Mr. Lenz scheduled a one-hour meeting with my office. He attended with his assistant Angela Hemming. My Executive Assistant, Heidi Scott, and Mr. Mullen attended as well at Mr. Lenz's request. Mr. Lenz had printed off a 2019 calendar and had written on it a number of different options that he had identified as possible "business trips" that we could take.<sup>17</sup> He suggested Ottawa, Florida and Ireland, in addition to our other travel. The message was implicit, but obvious, that we would determine later how to justify the locations we selected as a business purpose. He said, "okay, where in the world do you want to go?"

**V. MR. LENZ PROPOSES A PAY RAISE FOR MR. MULLEN**

90. Around this time, Mr. Lenz suggested to Mr. Mullen and me that Mr. Mullen should get a pay raise given the additional time he would soon be spending at conferences and meetings out-of-province. Mr. Lenz suggested that he could arrange for 30% of Mr. Mullen's salary to be paid out of the Sergeant-at-Arms' office budget. He said he would simply tell the Executive Financial Officer that this was required and it would be done.

**W. MEETING WITH MR. LENZ REGARDING THE BUDGET**

91. A few days later, I met with Mr. Lenz to review budget planning and a proposed three-year business plan for the Sergeant-at-Arms' department (because the Speaker is responsible for overall security at the Legislative Assembly). Mr. Mullen was present as well. As we looked through the proposed three-year business plan, I saw

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<sup>17</sup> Exhibit 28.



that while responsibility for most of the “Key Actions” was assigned either to the Sergeant-at-Arms or the Deputy Sergeant-at-Arms, there was one task assigned to an individual who, for the purposes of this report, I will refer to as “CD”. I asked why his name appeared there and Mr. Lenz explained to me that CD was a member of the Sergeant-at-Arms’ department and that he had recently been to the doctor and learned he had a serious degenerative health condition that the doctor predicted would eventually cause his death. The doctor had apparently told CD to put his affairs in order.

92. Mr. Lenz said that he and Mr. James and Mr. Ennis were planning to create a new position for CD so that he could “work” from home. This was to assist him in the event he died on the job, because his life insurance benefit would then pay three times the salary he was receiving as at the date of his death. If CD was not working, his eligibility for disability would be limited, and he would not be eligible to receive life insurance payments. Mr. Lenz said that CD’s plan was to commit suicide while he was still in employment, and before his condition deteriorated too far. I had serious concerns about this, primarily because it appeared to establish conditions that effectively incentivized suicide, but also because of the implications of the scheme in terms of the proposed use of public funds. I did not react to it at the time but I knew I would not be approving any such action. I have retained copies of the documents referring to CD which I reference above, but have not included them as Exhibits to this Preliminary Report in order to protect CD’s privacy.

**X. SECOND REQUEST FOR LIFE INSURANCE**

93. Early in November 2018, Mr. James came to me with a piece of paper that had his name on the top and contained language that would provide him with a life insurance benefit. He asked me to sign it. I did not know why he was asking this, but I inferred that the document I had previously signed a year earlier, which purported to do the same thing, must have been ineffective for some reason. I said I would need to think about it.

**Y. MR. JAMES AND MR. LENZ REMOVED**

94. In November 2018, I received a letter from the RCMP informing me that they were investigating Mr. James and Mr. Lenz. I sought advice from a senior constitutional lawyer as to how I should proceed. Ultimately I determined to consult with the House Leaders about it. Mr. James and Mr. Lenz were then placed on administrative leave with pay following the unanimous support by Members of a motion in the House to that effect.

### PART 3 – SPECIFIC ISSUES OF CONCERN

#### A. OVERVIEW

95. The following section sets out a number of concerns arising from the Speaker's experiences detailed above, a preliminary review of documentation provided to the Speaker, and initial fact-checking and verification to corroborate claims made by witnesses interviewed over the past several weeks. There may be additional documents which have not yet been reviewed which impact the analysis below. In addition, Mr. Lenz and Mr. James will need to be given an opportunity to provide an explanation about these matters.

96. Information in this section has been informed by:

- (a) The Speaker's experience detailed above;
- (b) In-person or telephone interviews with 16 current or former employees of the Legislative Assembly;
- (c) A review of documents, including materials provided by witnesses, documents provided by the Legislative Assembly's Human Resources Office and Department of Financial Services relating to the time period April 2017 – December 2018, as well as documents provided by Legislative Assembly staff that were responsive to certain specific requests; and
- (d) A review of relevant publicly-available materials, including legislation, internal government publications (including audit reports), and media reports.

97. This section has been prepared with the understanding that the ongoing criminal investigation has asked for documentation relating to matters referred to at Part 3, Sections (J) and (K) below, but apart from this, it is not known what other matters, if any, the RCMP are investigating.

98. Some of the events discussed below involve payments or liabilities worth hundreds of thousands of dollars. Other amounts, such as those detailed relating to gift-buying, extra hotel nights, unrecorded vacations and additional mileage may appear small in isolation, but their cumulative effect is substantial. As a pattern repeated over the nearly two-year period for which expenses documentation has been reviewed, collectively they amount to, at a minimum, many tens of thousands of dollars of public money, and potentially significantly more. Expenses in the years prior to 2017 have not

been reviewed as the documentation was not available for the preparation of this Preliminary Report. All dollar values are in Canadian dollars unless otherwise noted.

**B. TRAVEL COSTS AND CONDUCT**

99. The Speaker has described above certain concerns arising in relation to the conduct of the Clerk and the Sergeant-at-Arms in relation to overseas travel. A review of relevant documentation has confirmed examples of conduct which appears difficult to support with a sound business rationale. The following is an illustrative, although not exhaustive, series of examples.

**August 2018 England Trip**

100. The Speaker, Clerk, and Sergeant-at-Arms visited England in August 2018. Mr. James and Mr. Lenz were accompanied by their wives on this trip.

***Mr. James' Itinerary***

101. Mr. James took a vacation day on Thursday, July 26, 2018.<sup>18</sup> At some point between July 26 and July 31, he and his wife drove to Calgary where the Speaker understands one of their children to live. Mr. James did not use vacation days on either Friday July 27, or Monday July 30.<sup>19</sup>

102. At approximately 6:30 p.m. on Monday, July 31, Mr. James and his wife flew from Calgary to London.<sup>20</sup> He claimed a full per diem for three meals that day.<sup>21</sup>

103. Mr. James and his wife returned to Calgary in the afternoon of August 13. Again, he claimed a full per diem for three meals that day.<sup>22</sup> He took further vacation days on August 14 - 16.<sup>23</sup>

104. Following the trip, Mr. James claimed reimbursement of \$1,021.91, which is equal to the advertised cost of one business class return flight from Victoria to Calgary. His annotations on the relevant documents explain that, although he did not

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<sup>18</sup> Exhibit 1 at p. 16.

<sup>19</sup> Exhibit 1 at p. 16.

<sup>20</sup> Exhibit 2 at pp. 22-23.

<sup>21</sup> Exhibit 2 at pp. 1-2.

<sup>22</sup> Exhibit 2 at pp. 22-23 and Exhibit 2 at pp. 1-2.

<sup>23</sup> Exhibit 1 at p. 16.

actually take such a flight, he was claiming that amount “instead of claiming” 3,000 km in mileage for the drive from Victoria to Calgary, “which would be more”. It is difficult to accept the justification for this expense, given that:

- (a) While Mr. James would have notionally been entitled to a Victoria – London return fare if he had left from Victoria, he did not in fact depart from Victoria, or take a Victoria – Calgary flight as part of this trip;
- (b) Mr. James and his wife apparently chose to drive to Calgary, for a personal holiday. He would not have been entitled to claim this mileage, in any event; and
- (c) The drive from Victoria to Calgary is just over 1,000 km. It is not clear on what basis Mr. James would justify a mileage claim of 3,000 km, even if he was entitled to claim mileage.<sup>24</sup>

105. Notably, Mr. Lenz also stayed in the UK until August 15, 2018 (two days after the Speaker left), travelling to Glasgow and claiming full expenses for those days. It is not clear if there was a business purpose for this part of the trip.<sup>25</sup>

***Per diem expenses in the UK***

106. There is evidence that per diems were improperly claimed:

- (a) As far as the Speaker is aware, the “business” portion of the trip was from August 2 – August 13, 2018. However, it appears Mr. James left Canada at approximately 6:30 p.m. on July 31.<sup>26</sup> He claimed full day per diems for July 31 and August 1.
- (b) With the exception of August 7 and 8 (when breakfast was provided as part of the training exercise), Mr. James claimed full per diems for every day of the trip. On many days, one or more meals was provided by British hosts to the Legislative Assembly travelling party, or vice versa. For example, on August 5, Mr. Lenz claimed reimbursement for \$487.91 for a dinner at the Royal Air Force Club at which all were present. Mr. Lenz and

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<sup>24</sup> Exhibit 2 at pp. 10-11.

<sup>25</sup> Exhibit 3 at pp. 1, 2, 6, and 9.

<sup>26</sup> Mr. James was booked on AC850, a regularly-scheduled flight leaving Calgary at 6:35 p.m.

the Speaker did not claim a per diem for dinner on that day. Mr. James did.<sup>27</sup>

- (c) On August 7 and 8, notwithstanding that breakfast was included in the hotel room rate, Mr. Lenz claimed full per diems.<sup>28</sup>
- (d) While staying in London, Mr. Lenz claimed reimbursement for £14.50 (\$25) per day for the hotel’s “Executive Lounge” package,<sup>29</sup> which includes a breakfast buffet, an afternoon high tea spread, and an open bar in the evening. He also claimed a per diem for breakfast on those days.<sup>30</sup>
- (e) The per diems claimed by each of the Speaker, the Sergeant-at-Arms and the Clerk are set out in the table below.<sup>31</sup>

	Clerk	Sergeant-at-Arms	Speaker
July 31	Full (Canada)		
Aug 1	Full	Full	
Aug 2	Full	Full	Full
Aug 3	Full	B / L	B / L
Aug 4	Full	Full	L
Aug 5	Full	B / L	B / L
Aug 6	Full	Full	Full
Aug 7	L / D	Full	L / D
Aug 8	L / D	Full	L / D
Aug 9	Full	Full	Full
Aug 10	Full	Full	B / D
Aug 11	Full	Full	Full
Aug 12	Full	Full	Full
Aug 13	Full	Full	B / L
Aug 14		Full	
Aug 15		Full	
• B = Breakfast   L = Lunch   D = Dinner   Full = Full day			

<sup>27</sup> Exhibit 3 at pp. 1 and 4; See also para. 106(e).

<sup>28</sup> See para. 106(e).

<sup>29</sup> Exhibit 3 at p. 13.

<sup>30</sup> See <https://www.parkplaza.com/london-hotel-gb-se1-7ut/gbwestmi/hotel/services/executivelounge>.

<sup>31</sup> Exhibit 2 at pp. 1-2; Exhibit 3 at pp. 1-2; Exhibit 4.

**“Uniform” Purchases in the UK**

107. Claims were submitted by Mr. James and Mr. Lenz for “uniforms” allegedly purchased at Ede & Ravenscroft on August 3. Relevant receipts indicate that items purchased and claimed as expenses included:

- (a) By Mr. James, a charcoal suit (plus alterations); bookmarks; and two other items at £39.50 each, at a total cost of \$1,327.29 (the receipt for the suit has been amended by hand to read “black court suit”);<sup>32</sup> and
- (b) By Mr. Lenz, an onyx and silver stud set, a mother-of-pearl stud set, mother-of-pearl cufflinks, and a Marcella wing shirt at a total cost of \$666.11.<sup>33</sup>

**Gift Shop Purchases in the UK**

108. Mr. James claimed reimbursement for a number of gift shop purchases which are difficult to reconcile with a legitimate business purpose:<sup>34</sup>

Date	Location	Items	Price
Aug 2	National Gallery	Various purchases relating to art, including “Make Great Art on Your Own”	\$135.45
	National Portrait Gallery	“Kings and Queens” ruler 2 x “Monarchy” card game ( <i>note: a claim for 2 x “Shakespeare” card games appears to have been denied</i> ) 2 x items relating to “100 Pioneering Women”	\$77.98
	Post Office	Various commemorative items, including packages of special stamps, 4x items about the Royal Wedding, and other items to do with the monarchy.	\$266.53
Aug 3	Houses of Parliament	4 x diaries; 2x notebooks; 4x pens; 2x chocolate bars; mustard; 8x cards; 2x books; 3x note pads; 3x watches	\$480.52
	Post Office	8 packs of stamps	\$81.99
Aug 4	Houses of Parliament	“Quotable Churchill” “Gimson’s Prime Minister”	\$44.42

<sup>32</sup> Exhibit 2 at pp. 34-37.

<sup>33</sup> Exhibit 3 at p. 10.

<sup>34</sup> Exhibit 2 at pp. 24-33.

		3x House of Lords pens	
Aug 4	RAF Club	"100 <sup>th</sup> Anniversary" commemorative book	\$59.27
Aug 6	Jubilee Shop (@ 10:50 AM)	"Mounted print" 3x sticky notes 3x "proclamation" notebooks "Voice and Vote" guidebook	\$120.97
Aug 6	Jubilee Shop (@ 10:51 AM)	1x "proclamation" notebook	\$16.93
Aug 10	Clarkson's of York	Cufflinks	\$33.78
Aug 11	Hatchards (Bookstore)	2x books ("Queen Elizabeth II" and "The Gunpowder Plot")	\$42.38
		<b>TOTAL</b>	<b>\$1,360.22</b>

109. Mr. Lenz claimed reimbursement of \$16.75 for a book purchased on August 11 at the "Henry VII Experience" in York entitled *The Winter King*. It is a fantasy novel.<sup>35</sup>

***Taxi Trips in the U.K.***

110. In relation to the August 2018 U.K. trip, Mr. James submitted reimbursement claims for \$1,903.28 in taxi or other transport fares. While some of these are no doubt genuine business expenses, others appear questionable. For example, he claimed \$153.25 for an August 5 trip to the Chilterns which included the cost of return train fares from London to Banbury, and taxi fares between Banbury Station and "Soho", an apparent reference to the nearby "Soho Farmhouse", which according to an online search is a "rural hotel with dining and a spa". Similarly, he claimed \$93.13 on August 6 for taxi trips to and from Stratford-upon-Avon, best known as the birthplace of Shakespeare.<sup>36</sup>

111. One transport claim not included in the amount above is of particular note. On August 9, the Speaker travelled to Cambridge, on his own, and at his own expense. Mr. James, Mr. Lenz, and their wives travelled from Ettington to York. Because there were four people travelling, it appears to have been necessary to charter a large vehicle from a limousine company for a trip spanning 4.5 hours at a cost of \$771.42, which was expensed to the Legislative Assembly. Notwithstanding that the Speaker did not take that trip, the receipt appears to have been divided in thirds, with equal reimbursement of \$257.14 claimed from the Clerk's, the Sergeant-at-Arms', and the Speaker's offices.<sup>37</sup>

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<sup>35</sup> Exhibit 3 at pp. 11-12.

<sup>36</sup> Exhibit 2 at pp.1-2.

<sup>37</sup> Exhibit 2 at p. 38.

**Mr. James' Expenses Claims**

112. Mr. James submitted four separate reimbursement claims in relation to this trip: the first for his Calgary-Victoria flight; the second for transport and accommodation costs, the third for the purchase at Ede & Ravenscroft and the final for gift shop purchases.

113. A copy of an email from the Speaker sent on August 25 approving Mr. James' expenses was included with three of these reimbursement claims. The Speaker's evidence is that, when he sent the email, he did not know the extent of the underlying claims, or that the email would be used to ostensibly justify all of these.<sup>38</sup>

**Similar Issues on Other Trips**

114. The August 2018 England trip is a representative example of the kinds of issues which arise from the relevant documentation reviewed in connection with other work trips taken by Mr. James and Mr. Lenz during the relevant period. Space precludes a detailed discussion of each of those trips and the pertinent issues arising, although a number of concerning activities are visible from even a high-level review. Examples include:

- (a) Per diem claims which are clearly contradicted by other expense claims made. By way of example, paras. 57 – 60 above refer to a trip to China which took place from June 9 – 17, 2018. The following table sets out the per diem claims made by the Clerk, the Speaker and the Deputy Speaker during that trip:<sup>39</sup>

Date	Clerk	Speaker	Deputy Speaker
June 9	Full (Canada)	Full (Canada)	Full (Canada)
June 10	Full (Canada)	Full (Canada)	Full (Canada)
June 11	Full	B / L	B / L
June 12	Full	B / D	B / D
June 13	Full	B / D	B / D
June 14	Full	B / D	B / D
June 15	Full	Full	Full
June 16	Full	B / D	B / D
June 17	Full	Full	Full

<sup>38</sup> Exhibit 2 at pp. 3, 25, and 37. The email was also included with a claim submitted for a trip Mr. James took to Vancouver in August, 2018: See Exhibit 12 at p. 90.

<sup>39</sup> Exhibit 5.



The Speaker’s evidence is that many meals were provided by Chinese hosts. In addition, Mr. James also submitted receipts totalling \$1,014.27 for “hospitality events” hosted by the B.C. delegation during the trip.<sup>40</sup> Many of those receipts contain references to “lunch” or “dinner”, appearing to indicate that meals were provided. In light of the above, it is difficult to explain Mr. James’ claim of full per diem expenses for the entire trip.

- (b) Reimbursement claims submitted by Mr. James for luggage purchased on international trips:<sup>41</sup>

Date	Location	Item	Price
Dec 7, 2017	Edinburgh	Claim form says “luggage purchased at House of Fraser” – but receipt is missing.	\$253.61
Dec 10, 2017	London	[No description]	\$743.92
June 17, 2018	Hong Kong	Victorinox Luggage set. Appears to have included free giveaways with the purchase of the luggage set, including a toiletries bag and a “pouch”	\$1,138.34
		<b>TOTAL</b>	<b>\$2,135.87</b>

Mr. James appears to have been questioned by the Executive Financial Officer in relation to the last of these claims; his response stated that luggage had allegedly been requested by, and was purchased for, use by MLAs.<sup>42</sup> Setting aside the propriety of such a request, if made, the practicality of the Clerk’s Office keeping a roster of luggage for use by MLAs on foreign trips, and the questions of why reasonably priced luggage would not have been purchased in Victoria at a department store, or why MLAs would not simply use their own luggage, it is also not clear who made such a request or whether the luggage has in fact been retained for that purpose.

- (c) Rather than take ordinary taxis, or (for example, in London) Underground or other public transit, Mr. James often uses pre-booked executive travel companies, expensed through his office to the Legislative Assembly. In

<sup>40</sup> Exhibit 5 at pp. 2-8.

<sup>41</sup> Exhibit 6.

<sup>42</sup> Exhibit 6 at pp. 11-13.

addition to the journey from Ettington to York noted above, this has included:<sup>43</sup>

Date	Journey	Price
Dec 2, 2017	Heathrow to Park Plaza Hotel	\$317.55
Dec 6, 2017	Park Plaza Hotel to Heathrow	\$301.80
Dec 8, 2017	Day trip to St. Andrews	\$516.00
Dec 10, 2017	Park Plaza Hotel to Heathrow	\$301.80
Feb 5, 2018	Heathrow to Park Plaza Hotel	\$236.13
Feb 9, 2018	Park Plaza Hotel to Heathrow	\$220.06
Aug 6, 2018	Park Plaza Hotel to Ettington	\$941.40
Aug 13, 2018	Park Plaza Hotel to Heathrow	\$202.66
	<b>TOTAL</b>	<b>\$3,037.40</b>

In some of the instances above, Mr. James travelled by himself; in other instances, the trip included other members of the travelling delegation.

- (d) There is evidence that other clothing and accessories may have been purchased on trips by Mr. James and Mr. Lenz for personal use or as gifts, and claimed as “uniforms”. These appear to include \$1,157.26 in relation to an Ede & Ravenscroft suit, referred to in para. 27 above, as well as an umbrella, multiple sets of cufflinks, a brooch, a “trinket box”, ties, and a scarf.<sup>44</sup> Certain of those items are referred to in para. 29 above. Purchases made by Mr. Lenz on December 5, 2017 at the House of Lords gift shop and claimed as “uniforms” amounted to £108.05 (approximately \$185.85). However, he appears to have incorrectly (and perhaps inadvertently) claimed reimbursement from the Legislative Assembly of £180.05, or \$309.69 – a difference of \$123.84.<sup>45</sup>
- (e) On December 9, 2017, Mr. James, Mr. Lenz and the Speaker returned to London from Edinburgh. Mr. Lenz forgot his passport in Edinburgh, and claimed a first class rail fare to return from London to Edinburgh to retrieve it, and a one-way flight from Edinburgh back to London the next day, prior to returning to Canada. It is not clear whether thought was given to less

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<sup>43</sup> Exhibit 7.

<sup>44</sup> Exhibit 8 at p. 8.

<sup>45</sup> Exhibit 8 at pp. 1, 6 and 8.

expensive methods of retrieving the passport, for example, shipping it from Edinburgh to London via overnight courier.<sup>46</sup>

**C. UNUSUAL OFFICE EXPENSE CLAIMS**

115. In reviewing the disclosed expense claims, there were several entries noted that are of concern and warrant further investigation. Some expenses are concerning because they appear to be of a personal nature, while others are concerning given their magnitude.

116. It should be noted at the outset that there is no suggestion that these expenses were not signed off or otherwise approved. However, that in itself may illustrate an overarching concern; namely, that expenses which appear to have no conceivable business rationale could still be formally approved under prevailing systems. If these concerns are borne out, and subject to any legitimate explanation for the expenses which may yet emerge, this pattern would seem to reinforce the importance of employees not just following proper procedures, but exercising sound judgment and responsibility to determine whether expenses ought to be incurred at all.

***Expenses which appear personal in nature***

117. A review of the expenses processed through the Clerk's Office shows that many digital subscriptions are claimed on a monthly basis for Mr. James. While certain of these purchases, such as newspaper subscriptions, may be reasonable, many of the subscriptions purchased by Mr. James through his office appear to be personal in nature. Subscriptions purchased include: monthly Apple Music plan, yearly iCloud storage plan, *Bicycling* magazine, *Arizona Highways* magazine, *Palm Springs Life* magazine, *Sunset* magazine, *Wired*, *Flightradar24*, *History Today*, *India Today*, *The Economist*, *New Scientist*, *Electric Bike Action* magazine, the *Times* of London, *Marine Traffic – Ship Tracking*, *Popular Mechanics*, and *Forbes*.<sup>47</sup>

118. For the period reviewed, the digital subscriptions claimed by Mr. James totals over \$5,000. In one month alone, Mr. James claimed \$720.47 in digital subscriptions. Additionally, in October and November 2017, Mr. James claimed \$236.11 and \$278.54 through the Clerk's Office for a monthly subscription for Spot Satellite

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<sup>46</sup> Exhibit 8 at pp. 2, 10, 11, and 13-15.

<sup>47</sup> Examples of such purchases can be seen at Exhibit 9.

Messenger, a tracking device that uses the Globalstar satellite network to provide text messaging and GPS tracking.<sup>48</sup>

119. Other expenses warranting further inquiry include:

- (a) In December 2017, Mr. James was reimbursed for \$658.45 for a waterproof camera (two days later, he was reimbursed for \$78.39 for a camera case).<sup>49</sup> From the same store, he also claimed in March 2018 for memory cards (\$515.18)<sup>50</sup> and in July 2018 for a tripod (\$800.78).<sup>51</sup>
- (b) In June 2017, Mr. James was reimbursed \$504.44 for the purchase of Bose Noise-Cancelling Headphones.<sup>52</sup>
- (c) In April and August 2017, Mr. James was reimbursed a total of \$785.85 for three claims for “Dial a Geek”, a computer support service. One claim is stated to be for a “home office” and related to “new Apple products”. Another claim is stated to be for a “home office” in relation to a “new iMac” and also includes the purchase of a 1Tb hard drive. The final claim related to an “iMac with weird zoom issue”.<sup>53</sup>
- (d) In February and September 2018, Mr. James was reimbursed a total of \$966.84 for clothing purchased at Brooks Brothers including seven dress shirts and a tie. Notably, the word tie is crossed off and “tabs” is hand written in. Mr. James’ house uniform includes judicial tabs; it does not include conventional neckties.<sup>54</sup> Brooks Brothers confirmed in a recent telephone call that the store does not sell tabs.
- (e) First-hand witnesses have informed the Speaker that Mr. James has a particular interest in Apple products, and reported that over the years, he has frequently claimed reimbursement for the purchase and simultaneous use of multiple iPhones. A former Financial Services employee with first-

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<sup>48</sup> Exhibit 9 at pp. 17 and 20.

<sup>49</sup> Exhibit 10 at pp. 1-2.

<sup>50</sup> Exhibit 10 at pp. 3-4.

<sup>51</sup> Exhibit 10 at pp. 5-6.

<sup>52</sup> Exhibit 10 at pp. 7-8.

<sup>53</sup> Exhibit 10 at pp. 9-14.

<sup>54</sup> Exhibit 10 at pp. 15-18.

hand knowledge of Mr. James' expenses estimated that Mr. James at one point had as many as nine personal devices paid for by the Legislative Assembly. In the period April 2017 to July 2018, Mr. James was reimbursed over \$5,000 for various computer-related items (mostly Apple products). These included computer adapters, cables, keyboards, mice, external hard drives, iPhone cases, iPad cases, a USB drive, power adapters, Apple TV, an Apple pencil, a base stand for iPad pro, a HDMI Cable, and others.<sup>55</sup>

***Other questionable expenses***

120. In addition to the foregoing, the following expenses are concerning given their size and/or questionable appropriateness:

- (a) On November 9, 2017, the Clerk's Office processed a claim for \$1,631.27 for 48 bottles of wine and one branded wooden two-bottle box from Painted Rock Estate Winery in Penticton, BC. On November 29, 2017, 15 more branded wooden two-bottle boxes were purchased, for \$226.81.<sup>56</sup>
- (b) In August 2017, the Clerk's Office hosted a "Legislative Assemblies Business Continuity Network" conference in Bellevue, Washington. Neither the purpose of the conference, nor the reason why the British Columbia Legislative Assembly would be hosting a conference in Washington State, is evident from the documents, nor is the total amount spent on hosting the conference; however, many of the expenses are surprisingly large. Notable expenses include:<sup>57</sup>
  - (i) \$899.70 was claimed for a whale watching tour in Victoria on August 13, 2017;<sup>58</sup>
  - (ii) \$1,420.29 for tickets on the "Clipper" ferry service for nine individuals to travel to Seattle on August 15, 2017;<sup>59</sup>

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<sup>55</sup> Examples of such purchases can be seen at Exhibit 10 at pp. 23-45.

<sup>56</sup> Exhibit 10 at pp. 19-22.

<sup>57</sup> It should be noted that while Mr. Lenz's wife was on the trip, on August 31, 2017 he reimbursed the Legislative Assembly in the amount of \$494.90, which was stated to be her portion of the expenses. See Exhibit 11 at p.1.

<sup>58</sup> Exhibit 11 at pp. 2, 7, and 8. Initially, \$1,024.80 was claimed; subsequently, it appears that the price of one ticket was refunded as an intended participant was unable to attend.

- (iii) \$1,089.17 for dinner at the Seattle restaurant McCormick and Schmick's on August 16, 2017 (no itemized receipt was provided);<sup>60</sup>
- (iv) \$1,061.02 for transportation to and from Safeco Field on August 16, 2017;<sup>61</sup>
- (v) \$1,380.31 for tickets to a Seattle Mariners game for 13 people on August 16, 2017;<sup>62</sup>
- (vi) \$1,838.74 for dinner at the Seattle restaurant Daniel's Boiler on August 17, 2017 (no itemized receipt was provided);<sup>63</sup>
- (vii) \$2,659.61 for transportation from the Westin Hotel to the Washington Capitol Building and then to Safeco Field, apparently for a stadium tour,<sup>64</sup> and finally back to the Westin Hotel on August 17, 2017;<sup>65</sup> and
- (viii) Following the conference, a claim for reimbursement of \$13.62 for items purchased in the Washington State Legislative Gift Shop "as part of" the conference.<sup>66</sup>

**D. IN-PROVINCE TRIPS**

121. In addition to the above noted expenses, a further review of the in-province travel of both Mr. James and Mr. Lenz raises some concerns.

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<sup>59</sup> Exhibit 11 at pp. 2-6.

<sup>60</sup> Exhibit 11 at pp. 9-10.

<sup>61</sup> Exhibit 11 at pp. 9 and 11-13.

<sup>62</sup> Exhibit 11 at pp. 16-18.

<sup>63</sup> Exhibit 11 at pp. 9 and 15.

<sup>64</sup> Part of the reimbursement paid by Mr. Lenz for Mrs. Lenz's activities on this trip includes a line item for "Safeco Tour" – see Exhibit 11 at p. 1.

<sup>65</sup> Exhibit 11 at p. 14.

<sup>66</sup> Exhibit 11 at pp. 19-21.

**Mr. James' Trips**

122. For the period reviewed, Mr. James took a total of 36 day trips to the Lower Mainland and three trips to Penticton. The stated purpose of those trips listed on his expense claim form is typically a single meeting; in many cases, it is not clear how the meetings fall within Mr. James' responsibilities as Clerk of the House. On these trips, Mr. James often expenses lunches for the entire group attending the meeting; if not, he consistently claims a per diem for the relevant meal. He often claims mileage that exceeds what would be expected given the indicated destination. A summary of the trips is as follows:<sup>67</sup>

Date	Approximate Locations	Stated Purpose of Trip	Amounts Claimed	Mileage Claimed	Assured Loading?
March 15, 2017	Vancouver	Meeting with John Hunter.	\$20.00	(HeliJet)	
April 4, 2017	Vancouver	Meeting with Geoff Plant and Lauren Wihak. <sup>1</sup>	\$143.26	None Claimed	\$290
April 6, 2017	Vancouver	Meeting with John Hunter.	\$157.02	184 km	\$300
April 10, 2017	Burnaby	Meeting with Raj Chouhan.	\$128.76	192 km	\$310
April 19-20, 2017	Penticton	Meeting with Bill Barisoff and Al Horning.	\$961.21	1192 km	\$155 <sup>21</sup>
April 27, 2017	Vancouver	Meeting with Geoff Plant and Lauren Wihak. <sup>2</sup>	\$210.95	174 km	\$310
May 4, 2017	Vancouver	Meeting with John Hunter.	\$27.00	(Harbour Air)	
May 17, 2017	Vancouver	Meeting with John Hunter.	\$143.46	182 km	\$310
June 13, 2017	Vancouver	Meeting with Geoff Plant and Lauren Wihak.	\$169.73	191 km	\$310
June 30, 2017	Vancouver	Meeting with Geoff Plant.	\$146.64	188 km	\$310
July 5, 2017	Vancouver	Meeting with Raj Chouhan.	\$150.49	233 km	\$310
July 10-11, 2017	Penticton	Meeting with Bill Barisoff.	\$1091.51	1262 km	\$310
July 17, 2017	Vancouver	Meeting with Christy Clark.	\$157.02	184 km	\$310
August 30, 2017	Vancouver	Meeting with Geoff Plant. <sup>3</sup>	\$196.31	191 km	\$310
September 25, 2017	Vancouver	Meeting re Democracy Watch Appeal, Intervener Status. <sup>4</sup>	\$160.90	130 km	\$310

<sup>67</sup> Exhibit 12.

September 27, 2017	Vancouver, Burnaby	Meeting with Darryl Plecas. <sup>5</sup>	\$188.54	187 km	\$310
October 10-11, 2017	Kelowna, Penticton, Oliver	Meeting with Bill Barisoff.	\$1012.41	1322 km	\$310
October 13, 2017	Vancouver	Meeting with Christy Clark.	\$145.58	186 km	\$310
November 14, 2017	Vancouver	Meeting with Geoff Plant. <sup>6</sup>	\$181.58	181 km	\$310
November 17, 2017	Ft. Langley, Aldergrove	Not specified.	\$340.73	241 km	\$310
December 12, 2017	Vancouver	Meeting with Geoff Plant. <sup>7</sup>	\$165.56	182 km	\$310
December 14, 2017	Vancouver	Meeting with Christy Clark. <sup>8</sup>	\$189.58	176 km	\$310
January 11, 2018	Abbotsford	Meeting with Michael de Jong.	\$181.23	291 km	\$310
January 16, 2018	Vancouver	Meeting with Geoff Plant. <sup>9</sup>	\$191.18	181 km	\$310
January 17, 2018	Burnaby	Meeting with Darryl Plecas and Raj Chouhan.	\$192.96	231 km	\$310
January 23, 2018	Vancouver	Meeting with Geoff Plant and Bill Barisoff. <sup>11</sup>	\$203.24	176 km	\$310
January 31, 2018	Vancouver	Meeting at Liberal Vancouver Offices. <sup>12</sup>	\$149.26	92 km	\$310
March 9, 2018	Vancouver	Meeting with Geoff Plant. <sup>13</sup>	\$244.55	104 km	\$310
April 4, 2018	Vancouver	Meeting with Geoff Plant. Visit Dan Davies in the hospital. <sup>14</sup>	\$203.72	193 km	\$310
April 30-May 1, 2018	Abbotsford, Kelowna, Penticton	Meeting with Michael de Jong and Steve Thomson.	\$1046.15	1325 km	\$310
May 2, 2018	Vancouver	Meetings with Christy Clark and Raj Chouhan. <sup>15</sup>	\$231.44	194 km	\$310
May 4, 2018	Vancouver	Meeting with Geoff Plant. <sup>16</sup>	\$228.98	252 km	\$310
May 11, 2018	Vancouver	Chinese Consulate for Visa Application.	\$144.06	189 km	\$310
May 18, 2018	Vancouver	Chinese Consul General for Visas.	\$135.76	194 km	\$310
June 20, 2018	Vancouver, Point Grey	Meeting with Geoff Plant and Paul Barbeau. <sup>17</sup>	\$226.65	225 km	\$310
July 9, 2018	Vancouver	Chinese Consul General.	\$421.93	(Harbour Air)	
July 12, 2018	Vancouver	Chinese Consul General. <sup>18</sup>	\$139.50	125 km	\$310
August 21,	Vancouver	Meeting with Geoff Plant and	\$230.28	192 km	\$310



2018		Robert Watt. <sup>19</sup>			
August 30, 2018	Vancouver, Burnaby	Meeting with Raj Chouhan. <sup>20</sup>	\$184.82	154 km	\$310
		<b>TOTAL</b>	<b>\$10,437.81</b>		<b>\$10,975.00</b>

1. Claimed lunch at Zeffereli's Restaurant for \$81.26 – no itemized receipt.
2. Hosted lunch at Showcase Restaurant in Vancouver Marriott Downtown and claimed \$98.73 – no itemized receipt.
3. Hosted lunch at Showcase Restaurant in Vancouver Marriott Downtown and claimed \$75.08 – no itemized receipt.
4. Claimed both mileage for personal vehicle use and for taxis in Vancouver.
5. Hosted lunch at Hotel Vancouver and claimed \$69.43 – no itemized receipt.
6. Hosted lunch at Showcase Restaurant in Vancouver Marriott Downtown and claimed \$65.65 – no itemized receipt.
7. Hosted lunch at Showcase Restaurant in Vancouver Marriott Downtown and claimed \$49.10 – no itemized receipt.
8. Hosted lunch at Fairmont Hotel Vancouver and claimed \$76.30 for guest and himself.
9. Claimed lunch at Showcase Restaurant in Vancouver Marriott Downtown and claimed \$75.25 – no itemized receipt.
10. Claimed lunch at Riverway Clubhouse in Burnaby for \$70.53 – no itemized receipt.
11. Claimed lunch at Cactus Club in Coal Harbour for \$89.96 – no itemized receipt.
12. Claimed both mileage for personal vehicle and for taxis in Vancouver.
13. Hosted breakfast at Showcase Restaurant in Vancouver Marriott Downtown and claimed \$56.93 – no itemized receipt. Claims both mileage for personal vehicle and for taxis in Vancouver.
14. Claimed both mileage for personal vehicle and for taxis in Vancouver.
15. Hosted lunch at Seasons in the Park and claimed \$120.18 – no itemized receipt.
16. Hosted lunch at Showcase Restaurant in Vancouver Marriott Downtown and claimed \$67.90 – no itemized receipt.
17. Hosted lunch at Showcase Restaurant in Vancouver Marriott Downtown and claimed \$80.40 – no itemized receipt.
18. Claimed both mileage for personal vehicle and for taxis in Vancouver.
19. Claimed for lunch at Showcase Restaurant in Vancouver Marriott Downtown for \$106.60 – no itemized receipt.
20. Claimed for lunch at Riverway Clubhouse in Burnaby for \$50.66 – no itemized receipt.
21. Assured Loading Ticket only used one way.

123. The total of \$10,437.81 above relates only to the amounts for which reimbursement was claimed by Mr. James personally. It does not include expenses relating to assured loading tickets on BC Ferries, which are purchased through the Clerk's Office and redeemed via that account. On each of the trips where Mr. James used his personal vehicle (as opposed to travelling by Harbour Air or HeliJet), he also used assured loading tickets, at a total cost of \$10,975.00 during an 18-month period. While use of an assured loading pass may no doubt be appropriate in certain situations, where a trip is being made at non-peak times (as many of the above trips appear to have been) and recorded as a single mid-day meeting mid-week, an obvious question would be why any guaranteed loading is necessary; or to the extent comfort in that respect is required, why a much cheaper reserved spot on the ferry could not be purchased instead.

124. Certain of the trips above include claims for both personal vehicle use (i.e. mileage), as well as taxi trips as part of the same trip. This requires further explanation. The Speaker has been informed that Mr. James from time to time takes a personal vehicle to be serviced in Vancouver; if this is the reason for the claims for both mileage and taxis, it would appear not to be a legitimate business expense.

**Mr. Lenz's Trips**

125. While Mr. Lenz does not travel as frequently, it appears that he consistently arranged his trips to Vancouver so that he stays overnight and claims for a hotel room (almost exclusively at the Westin Wall Centre Airport and Resorts), significantly increasing the costs of such trips. Further, several trips appear to be related to an online Master's programme he is taking at Simon Fraser University and it is unclear (i) why the trips are necessary, given the programme is online; or (ii) why these trips are expensed as business claims. In relation to none of the trips below did Mr. Lenz use any of his accrued vacation days, notwithstanding that many of them appear to have represented absences from the Legislative Assembly of multiple, and at times several, days. A summary of the trips is as follows:<sup>68</sup>

Date	Approximate Locations	Stated Purpose of Trip	Amounts Claimed	Mileage Claim
May 16-17, 2017	Burnaby	Travel to Vancouver of the TRSS [Terrorism, Risk, and Security Studies] meeting at SFU Burnaby Campus. <sup>1</sup>	\$624.92	108 km
July 5-6, 2017	Vancouver	Meeting with Paul Corrado, BC Sheriffs re: MOU for Continuity of Government.	\$604.06	118 km
July 12-13, 2017	Burnaby and Surrey	Travel to Vancouver for meetings with MLA Chouhan, RCMP, SFU, and to attend EINSET JMT meeting. <sup>2</sup>	\$549.46	123 km
August 31-September 1, 2017	Abbotsford	Travel to Abbotsford for meeting with Steven & Gwen Point to discuss Reconciliation Project and Legacy Foundation. <sup>3</sup>	\$680.90	185 km
September 28-29, 2017	Abbotsford	Meeting in Abbotsford with Steven & Gwen Point and Darryl Plecas to discuss Reconciliation Project and Legacy Foundation. <sup>4</sup>	\$862.92	185 km
October 14-15, 2017	Coquitlam	Participation in the BC Sheriffs' Retirement and Awards Dinner in Coquitlam, BC. <sup>5</sup>	\$498.77	96 km

<sup>68</sup> Exhibit 13.

January 29-31, 2018	Richmond and Abbotsford	Meetings in Vancouver (Richard Frank, SFU) and Abbotsford (Darryl Plecas, Steven & Gwen Point re: Rings of Reconciliation). <sup>6</sup>	\$814.26	None Claimed
May 11, 2018	Abbotsford	Meeting in Abbotsford with Darryl Plecas and Janet Austin re: Rings of Reconciliation Award Project.	\$260.00	150 km
May 18-23, 2018	Richmond and Surrey	Meetings in Surrey and Vancouver with RCMP and Andre Gerolymatos (SFU). <sup>7</sup>	\$610.58	38 km
June 1-2, 2018	Richmond	Meeting with Gwen and Steven Point re: Rings of Reconciliation. <sup>8</sup>	\$736.66	80 km
July 12-13, 2018	Vancouver	Meetings with RCMP and SFU. <sup>9</sup>	\$726.27	132 km
November 13-15, 2018	Burnaby and Richmond	Meetings with RCMP, BC Achievement, Gwen and Steven Point, and SFU. <sup>10</sup>	\$849.35	84 km
		<b>TOTAL</b>	<b>\$7,796.39</b>	
<p>1. As described below, the TRSS is the Master Programme that Mr. Lenz is currently enrolled in at SFU. Claimed full per diem for May 17, 2017 (and all expenses) although does not appear to be a work related trip.</p> <p>2. Claimed dinner with Raj Chouhan on July 12, 2017. Met for breakfast with Richard Frank, an assistant Professor in the School of Criminology at Simon Fraser University. The meeting is stated to concern the "Cyber Tabletop Exercise".</p> <p>3. Claimed \$142.33 for dinner for guests and himself.</p> <p>4. Claimed \$135.73 for dinner for guests and himself.</p> <p>5. Hotel booked under Karen Lenz.</p> <p>6. Travelled to Vancouver on the afternoon of January 29, 2017. Met with Steven and Gwen Point and Darryl Plecas for lunch on January 30, 2017 (claimed the lunch for everyone) and then met with Richard Frank on the morning of January 31, 2017 (claimed meals for both) before travelling back to Victoria.</p> <p>7. A hotel is only claimed for the night of May 22, 2018. A breakfast is claimed on the morning of May 23, 2018 with Doug McLaughlin of the RCMP. No holidays were claimed during this period.</p> <p>8. Claimed dinner for the night of June 1, 2018 in the amount of \$124.23. \$19.98 was not claimed being Karen Lenz's portion of the meal.</p> <p>9. Only receipt claimed in Vancouver (other than the hotel) is a parking pass purchased at 12:11 p.m. on July 12, 2013.</p> <p>10. Met for dinner with Steve Hart, a professor in clinical-forensic psychology at SFU, in Richmond on November 13, 2014; Met for breakfast with Cathryn Wilson, Executive Director of the BC Achievement Foundation, on November 14, 2018. Other meetings in Surrey and Burnaby.</p>				

126. In addition to the above-noted trips and those described in Part 2, Section (B) above, during the period for which records were reviewed, Mr. Lenz also travelled to Ottawa from January 25, 2018 to January 27, 2018 to attend the swearing in of Gordie Hogg as a Member of Parliament and for which he claimed reimbursement of \$1,243.63

in expenses.<sup>69</sup> Again, it is unclear how that trip related to or was a necessary part of Mr. Lenz's responsibilities as Sergeant-at-Arms.

**E. VACATION PAYOUTS**

127. The Legislative Assembly has a policy of encouraging employees to take vacation entitlement as time away from work. Legislative Assembly policy is that staff must use a minimum of 15 of their allotted vacation days each year.<sup>70</sup>

128. Only "in circumstances where vacations cannot be scheduled because of operational requirements," unused vacation days may be rolled over into the next year or paid out, but must be taken or paid out in the next year. Additional days are not to be paid out in lieu unless there are extraordinary circumstances.<sup>71</sup>

129. The present version of the policy represents a considerable relaxing of the version of the policy prevailing over the past several decades. Prior to 2004, the relevant policy appears to have capped the number of days to be paid out at 15, once per year. In 1994, the policy permitted only five days per year to be banked.<sup>72</sup>

130. In addition to the salutary benefits to individuals of time off, rest, avoiding burnout, and so on, there is an economic policy reason for this, namely that payments in lieu of vacation are not considered part of an employee's base salary, are not budgeted for as such, and therefore could represent a significant additional and unexpected financial burden to the Legislative Assembly.

131. Multiple witnesses with relevant first-hand knowledge informed the Speaker that both Mr. James and Mr. Lenz make a regular practice of receiving payment in lieu of their vacation days. Witnesses also stated that Mr. James and Mr. Lenz appeared to regularly take time off and holidays, but often do not record these as official vacation days. In Mr. James' case, for example, it was observed by a number of witnesses that he was rarely to be seen at work on Fridays.

132. A review of relevant records confirms that Mr. James and Mr. Lenz record almost no official vacation – and in Mr. Lenz's case, there have been years in which he

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<sup>69</sup> Exhibit 14.

<sup>70</sup> Exhibit 15 at pp. 5-10.

<sup>71</sup> Most relevantly, where the Clerk of the Legislative Assembly has "directed the employee, in writing, to cancel scheduled vacation leave due to extreme pressures of work or other extenuating circumstances."

<sup>72</sup> See Exhibit 16 at p. 4.

has taken zero officially-recorded holidays, and instead been paid out in lieu for the entirety of his vacation days.<sup>73</sup>

Year	Craig James			Gary Lenz		
	Days Taken	Days Allotted	Paid out	Days Taken	Days Allotted	Paid out
2012	10	35	24 days	10.5	20	54.3 days*
2013	7	35	28 days	6	22	28 days **
2014	13	35	22 days	9.5	23	13.5 days ***
2015	6	35	29 days	0	25	-
2016	8	35	27 days	0	25	25 days
2017	11	45	34 days	3	35	22 days
2018	12	45	19.25 days		35	49 days **
<b>Notes</b>	* 380 hours (assuming 7 hrs/day). Mr. Lenz appears to have started 2012 with 480 'banked' vacation hours. It is unclear how this came about, as there are also policies against 'rolling over' significant vacation.					
	** including rolled over time from previous years					
	*** 94 hours					

133. This practice effectively means both Mr. James and Mr. Lenz have regularly received unbudgeted cash bonuses. These have ranged from thousands to several tens of thousands of dollars per year. In some years, the vacation payouts have amounted to nearly 20% of the individual's salary.

134. In addition, vacation payouts appear to be calculated based on the individual's pro-rated salary as of the date of the payout, not the day the vacation accrued. In other words, if an individual accrues vacation entitlement in one year, rolls it over to the next year, and prior to it being paid out receives a salary uplift, the vacation days will be paid out at the new, higher salary.

135. In Mr. James' case, there is evidence that:

- (a) He has made this a regular practice for as long as he has been employed at the Legislative Assembly. For example, he requested payouts in lieu of 20, 25, and 30 days' unused vacation in relation to the years 1987-89, respectively.<sup>74</sup> This has been a consistent pattern since then.

<sup>73</sup> Exhibit 1.

<sup>74</sup> Exhibit 16 at pp. 1-3.

- (b) For nearly as long, colleagues have identified this as contrary to Legislative Assembly policy, and expressed concerns – both internally, and to Mr. James directly. These have included:
- (i) A memorandum from an HR employee to Mr. James in January 1994 stating that while 30 days of unused holidays may be “banked” for future use, this is a “one-time occurrence which deviates from the policy of only 5 days per annum being banked”;<sup>75</sup>
  - (ii) A January 1994 memo from the same HR employee to Mr. MacMinn (then the Clerk of the House) in which she:
    - refers to a December 1991 memo from Ian Horne Q.C., (Mr. MacMinn’s predecessor as Clerk of the House) which stated that Mr. James would need prior approval for payout of unused vacation in the future; and
    - states, *“Craig sets a precedent which his staff then feel entitled to follow, i.e. payout of vacation in lieu of taking their holidays....George, I am very concerned with the above..”* The employee suggests banking Mr. James’ vacation instead of paying it out, *“which will reduce the impact on [the Clerk’s] budget which does not have the available funds at present to handle this type of expense. I believe that by not paying the vacation time in actual dollars, we will discourage the continuous practice of vacation payout which Craig has been involved with since his date of hire.”*<sup>76</sup>
  - (iii) A December 2006 letter to Mr. James from the then Clerk Assistant stating, *“we do try to follow a Human Resources policy requiring everyone to take 3 weeks vacation from their yearly vacation allotment. Accordingly, this should be taken into account next year.”*<sup>77</sup>
  - (iv) A September 2015 email chain in which a request by Mr. James for vacation payout is approved, to which the Executive Financial

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<sup>75</sup> Exhibit 16 at p 4.

<sup>76</sup> Exhibit 16 at pp. 5-6.

<sup>77</sup> Exhibit 16 at p. 10.

Officer adds, "*I will speak to Craig about this and our vacation policy next week.*"<sup>78</sup>

- (c) Early in his tenure, Mr. James included with these requests an explanation for why he had been unable to take his full vacation allocation.<sup>79</sup> Typically the reason was that things had been unexpectedly busy, but he anticipated being able to take his full allotment of vacation going forward. Similar requests and explanations would be given in subsequent years.
- (d) Since becoming Clerk, the tone of Mr. James' requests has changed: rather than a request for an exception to be made with an explanation for why this is necessary, recent requests have simply been an instruction to his subordinates to arrange for the payment to be made. At times, in addition to requests to be paid out in lieu of vacation days previously accrued which could not be taken, Mr. James has requested to be reimbursed in advance for vacation days which he has not yet accrued, but which he presumably does not intend to take.<sup>80</sup>

136. In Mr. Lenz's case, although his practices in relation to rolling over and requesting payouts for vacation days are contrary to established policy, it is Mr. James who has been responsible for approving them, and perhaps unsurprisingly, they have been consistently approved.

137. Although it has not been possible based on the evidence reviewed to quantify with precision the total amount paid to Mr. Lenz and Mr. James in lieu of vacation, it is, at a minimum, several hundreds of thousands of dollars.

**F. RETIREMENT ALLOWANCES**<sup>81</sup>

***1984 Retirement Allowance***

138. In 1984, then-Speaker Walter Davidson established a benefits programme for three senior Clerks (Mr. MacMinn, the then-Clerk Ian Horne, and Law Clerk Ian Izard), and the Chief of Hansard. The rationale for this programme was that these

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<sup>78</sup> Exhibit 16 at p. 12.

<sup>79</sup> As examples, see Exhibit 16 at pp. 1-3.

<sup>80</sup> Exhibit 16 at p. 11.

<sup>81</sup> Supporting documents for this section are contained in the Report included as Exhibit 17.

officers did not fall within the terms of the *Public Service Act* Retirement Allowance, the Executive Benefit Plan, or similar benefits available to senior officers and managers.

139. Accordingly, Speaker Davidson provided that, upon vacating their respective offices, those officers would be paid a “long service award” equal to 13 days of salary at the current daily rate for each year of service, to a maximum of 20 years.

140. In time, however, a benefits package was put in place for those officers as with other senior employees of the Legislative Assembly. In parallel to changes made to the Executive Benefit Plan (which the “Retirement Allowance” was designed to replicate), the recipients generally received increases to their base salary, or a lump sum payout, and in exchange, their eligibility to receive the Retirement Allowance was capped.

141. Mr. James was hired on February 2, 1987, approximately two months before the long-service award / executive benefit plan was capped. He was hired as Clerk of Committees, a position which was not among the Table Officers contemplated at the time of the 1984 memorandum.

142. It appears, however, that Mr. James or Mr. Barisoff became aware of the 1984 memo at some point prior to February 13, 2012, because on that date, Mr. Barisoff wrote (or at least signed) a memorandum to Mr. James in which he purported to terminate (in 2012) the programme that had in fact ended in 1987. The memorandum said that a consequence of terminating the programme was that its outstanding accrued liabilities had to be paid out. Mr. James thereby received a payment of \$257,988.38, less taxes.

143. A number of questions arise in relation to that payment:

- (a) Mr. James was not hired until 1987. The benefit created by the 1984 memorandum was not mentioned in the letter setting out the terms of Mr. James’ employment.
- (b) According to witnesses, Mr. James is (and always has been) eligible for executive benefits programmes of a kind which were not available to the House Officers contemplated in the 1984 memo. That is supported by the fact that, in October 1987, Mr. James received a 10% salary increase, “to allow for the Provincial Government’s Executive Benefit Plan,” i.e. the benefit the absence of which, in 1984, was the justification for the establishment of the “Retirement Allowance.”<sup>82</sup>

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<sup>82</sup> Exhibit 17 at p. 4.



- (c) The timing of the payment to Mr. James is eye-catching. Prior to June 2010, Mr. James was Clerk of Committees – the fourth-ranking Clerk at the Legislative Assembly. In June 2010, Mr. James left the Legislative Assembly to become Acting Chief Electoral Officer (*see further para. 197*). He returned to the Legislative Assembly when appointed as Clerk of the House in September 2011, on a significantly higher salary than he had enjoyed as Clerk of Committees. When the “Retirement Allowance” was purportedly terminated shortly thereafter, the payment to Mr. James was calculated based on his increased salary.
- (d) On December 19, 2011, three months after becoming Clerk of the House, Mr. James wrote to Clerk Assistant Robert Vaive, who had previously been Mr. James’ superior. In his letter, Mr. James presented Mr. Vaive with a “jump or be pushed” offer of retirement, in which he stated that, “*we continue to have some concerns about the applicability of the Long Service Award to your situation. Nevertheless, upon receiving from you a Notice of Retirement effective December 31, 2011, we shall pay to you the following sums*” – which included \$197,474.38 in relation to the retirement allowance.<sup>83</sup> Mr. James added, “*if the foregoing is not acceptable to you, then we will consider it necessary to place you on leave of absence without pay as of January 1, 2012.*”
- (e) Mr. Vaive was hired in 1994. Ms. Ryan-Lloyd was hired in 1999. The “concerns” expressed by Mr. James in relation to Mr. Vaive’s eligibility for the Retirement Allowance are difficult to square with his support, which he expressed in writing, for Ms. Ryan-Lloyd receiving the payment (*see further below*).
- (f) A number of long-serving Legislative Assembly employees informed the Speaker that they understood the 1984 Retirement Allowance was intended to be a benefit payable on retirement. A memorandum from Speaker Barisoff to Mr. James of February 2012 terminating the benefit states that, “while purportedly intended as a ‘Retirement Allowance’, the body of the document makes no reference to retirement.” While that is technically true, the 1984 memorandum included the statements, “upon vacating their respective offices... they shall be paid...”, and “...to be paid... in the year of termination of office.”<sup>84</sup> That language appears to

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<sup>83</sup> A retroactive pay adjustment subsequently increased this to \$202,385.41 – See Exhibit 17 at pp. 46-49.

<sup>84</sup> Exhibit 17 at p. 22.

imply an understanding that the recipient would be retiring or leaving the Legislative Assembly.

144. The payments that were made pursuant to this purported termination of the benefit amounted to the following:

Name	Position	Payout
Craig James	Clerk of the House	\$257,988.38
Robert Vaive	Clerk Assistant	\$202,385.41
Kate-Ryan Lloyd	Deputy Clerk and Clerk of Committees	\$118,915.84
Ian Izard	Law Clerk	\$80,224.17
	<b>TOTAL</b>	<b>\$659,513.80</b>

145. The notion that the Retirement Allowance was not expressly or impliedly terminated with the implementation of the benefits package but instead continued to accrue, is troubling. There is no indication that any legal opinion was obtained in support of the February 13, 2012 memorandum.

146. The same Retirement Allowance was paid in 2012 to Kate Ryan-Lloyd as Deputy Clerk and Clerk of Committees, in the amount of \$118,915.84. This was apparently done at the instruction of Mr. Barisoff and with the written support of Mr. James. However, on February 20, 2013, Ms. Ryan-Lloyd wrote to Mr. James stating that she would voluntarily pay back the net amount she received in full, for “personal reasons”, which invites the inference that she did not believe it to be a legitimate benefit.

147. Certain documentation may suggest that Mr. James desired to have the payment of this benefit not disclosed: on February 15, 2012, his assistant wrote to the then-Comptroller General stating, “Please ensure that... the payments are shown on a separate advice slip than that of the regular pay.”<sup>85</sup> The amount of the benefit appears to have been recorded under an accounting code such that it was not included as part of the publicly-disclosed amount of the receiving officers’ salary for 2012.

148. This Retirement Allowance was addressed in anonymous terms by then-Auditor General John Doyle in a March 2013 report titled “Audit of the Legislative Assembly’s Financial Records: Update”.<sup>86</sup> That report, which referred to the payments as “unusual compensation arrangements,” referenced the total of \$660,000 paid to four “senior legislative bureaucrats.” It did not name the recipients or amounts of individual payments, or discuss whether those individuals were entitled to the payments or not.

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<sup>85</sup> Exhibit 17 at p. 55.

<sup>86</sup> Exhibit 17 at pp. 12-22.

Nor was the Auditor General's review in a position to assess what appears to be, at best, a questionable legal interpretation of the original memorandum.

149. The most comprehensive analysis of the Retirement Allowance to date appears to have been conducted in January 2014 by the Legislative Assembly's then-Director of Human Resources, Jo-Anne Kern, following the publication of the John Doyle audit report and at the request of then-Speaker Linda Reid.<sup>87</sup> Although it did not draw any legal conclusions, its summary of the relevant history of the scheme, and the supporting documents it attaches, suggest that Mr. James' receipt of and entitlement to the \$257,000 payment (a) was based on an extremely generous interpretation of the history and purpose of the scheme, vis-à-vis Mr. James; (b) ought to have been, at a minimum, supported by some formally-documented analysis indicating on what basis it arose; and (c) required and depended on the acquiescence of the Speaker in 2012, Mr. Barisoff.

150. In response to the "unusual compensation arrangements" flagged by Mr. Doyle in 2013, Speaker Barisoff wrote that the programme established in 1984 was "consistent with some practices elsewhere" (though these are not identified), and "as such, this programme was a condition of employment when the current Table Officers were appointed by the Legislative Assembly."<sup>88</sup> Ms. Kern's report suggests that was not accurate.

151. Although Mr. Barisoff's response noted that the "retirement allowances were included in the Vote 1 budget"<sup>89</sup>, no evidence seen to date suggests that the details of these payments were distinguished in the budget from other benefits regularly payable to retiring staff, discussed specifically with LAMC or explained to the Legislative Assembly. Simply put, including these amounts in a general "benefits" line item in the budget would not have indicated for Members that there was anything noteworthy about them, or allowed them to make a fully-informed decision about these payments specifically.

152. It is not clear what, if any, action was taken by Speaker Reid after receiving Ms. Kern's report. However, beyond the substantive issues raised in Ms. Kern's report, it is concerning that the report itself appears to have been either not placed on file, or removed, from the Legislative Assembly's records. Ms. Kern's understanding is that her report was placed in the Speaker's vault. By the time the

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<sup>87</sup> Exhibit 17.

<sup>88</sup> Exhibit 17 at p. 10.

<sup>89</sup> Exhibit 17 at p. 11.

present Speaker took office, it was no longer there. Moreover, the report was specifically requested of Legislative Assembly Human Resources staff by the Speaker as part of the current review, and the response given was that no report matching this description could be found. The only reason a copy has been located is that a former employee made and kept a copy, anticipating that its existence might one day be disputed.

153. From a review of relevant documentation, it appears that the payment to Mr. James was a payment of questionable authority and it ought to be investigated properly with consideration given as to whether it was authorized.

### **2018 Request**

154. The events of 2012 are the backdrop for the further request for a resignation benefit that occurred in late March or early April 2018, at which time the Speaker approved a resignation benefit proposed by Mr. James which was later rescinded by the Speaker. The benefit proposed at that time was biweekly payments for 12 months at the salary rate paid to the officer at the time of resignation, and would have applied to Mr. James, Ms. Ryan-Lloyd, Mr. Lenz and Ms. Woodward. Considering the annual salaries of those officers, the potential liability for the Legislature was in the range of a million dollars. This was obviously a type of liability that ought to have been cleared with LAMC and the Finance and Audit Committee. Why this benefit was sought directly from the Speaker without such approvals is a matter which should be investigated. After the Speaker signed it, it does not appear there was any attempt to bring it to LAMC or the Finance and Audit Committee's attention, but instead it was placed on the Speaker's letterhead, and a certified copy was obtained and provided to the Director of Finance.<sup>90</sup>

### **G. LIFE INSURANCE BENEFITS**

155. From the documentation received from the Department of Financial Services, it appears that Mr. James previously paid out of pocket for term life insurance, and expensed those payments to the Legislative Assembly.<sup>91</sup> Whether because that policy came to an end, or for some other reason, Mr. James has for some time been endeavoring to secure a life insurance benefit for himself funded directly by the Legislative Assembly.

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<sup>90</sup> Exhibit 30 at p. 2.

<sup>91</sup> Exhibit 16 at pp. 13-14.

156. It may be that Mr. James will say that this benefit was initially initiated or approved by Mr. Barisoff who verbally agreed to the benefit, but for some reason it was not captured in writing nor was it implemented. As a result, Mr. James sought to secure written confirmation of the purported benefit on October 11, 2017, by way of having Mr. Barisoff “confirm” with his signature a “note to file” written by Mr. James as follows:

For the record, I wish to have it noted that as a term of my employment as Clerk of the Legislative Assembly of British Columbia it was expressly directed by then Speaker Bill Barisoff that as part of my terms of remuneration I am to be entitled to personal life insurance coverage until I retire in the amount of three times my average yearly salary during my last ten years of employment. Furthermore, the long-term disability plan continues until I retire.<sup>92</sup>

157. That signature was evidently obtained in person, as the expense records show that Mr. James drove to Penticton on October 10, 2017, stayed overnight at the Lakeside Resort, and the next day visited Mr. Barisoff, obtained his signature on the Note to File, and drove down, claiming full per diems and mileage for the trip, while using no vacation days.<sup>93</sup>

158. It appears this confirmation from the former Speaker was deemed not to be effective, and for that reason, Mr. James attended on Mr. Plecas on November 9, 2017 and asked him to sign a letter that contained slightly different language as follows:

This will confirm that you will be entitled to personal life insurance coverage until you retire in the amount of three times your annual salary at that time. As the Legislative Assembly is self-insured, the life insurance will be paid to your estate from Vote 1 in the event of your death prior to your retirement and after you turn 65 years of age.<sup>94</sup>

159. At the same time, Mr. James asked the Speaker to sign another letter dated November 9, 2017, which provided Mr. Lenz with, among other things, personal life insurance coverage on the same basis.<sup>95</sup> As explained above, the Speaker assumed that these benefits had been preapproved by LAMC and the Finance and Audit Committee, and accordingly he signed the letters.

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<sup>92</sup> Exhibit 18 at p. 1.

<sup>93</sup> Exhibit 12 at p. 35; Exhibit 1 at p. 15.

<sup>94</sup> Exhibit 18 at p. 2.

<sup>95</sup> Exhibit 18 at p. 4.

160. For some reason, it appears that the language in the November 9, 2017 letters was also inadequate or ineffective, resulting in Mr. James attending on the Speaker again, in October 2018, with new proposed language for the life insurance benefit as follows:

This will confirm that you will be entitled as a term of your employment to personal life insurance coverage until you retire in the amount of three times you [sic] annual salary as at the date of your death. As the Legislative Assembly is self-insured, the life insurance will be paid out to your named beneficiary from Vote 1 in the event of your death prior to your retirement. The Executive Financial Officer shall process this benefit forthwith upon your death.<sup>96</sup>

161. The Speaker declined to confirm the benefit and it was not implemented. While it is unclear at this stage what the defect was in the language that purported to provide this life insurance benefit, it is concerning that such a benefit is proposed to be simply be signed off by the Speaker without it being authorized and approved by LAMC or some other appropriate accountable process. The benefits, if authorized, would represent contingent potential liabilities for the Legislative Assembly of approximately \$1,000,000 in relation to the Clerk, and of approximately \$660,000 in relation to the Sergeant-at-Arms, and should have been subject to appropriate approvals.

#### **H. APPOINTMENT AS COMMISSIONER**

162. In 1981, Mr. MacMinn first published the textbook Parliamentary Practice in British Columbia. The book is currently on its fourth edition, and is considered a valuable resource to staff of the Legislative Assembly. It has been customary for the Office of the Clerk of the House, as the senior official responsible for parliamentary practice, to coordinate the publication of new editions of the textbook.

163. Mr. James made an individual trip to London from February 4 – 9, 2018. This was ostensibly for meetings with the editors of Erskine May, a leading British textbook on parliamentary practice. There is no record of how many meetings took place, and it is unclear why it was necessary for those meetings to be in person, as opposed to by telephone or video conference. The trip does not appear to have been approved in advance by anyone.

164. Mr. James claimed for more than \$10,000 for the cost of his flights, and stayed four nights at the Park Plaza Westminster Bridge, at an average cost of more

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<sup>96</sup> Exhibit 18 at p. 3.

than \$500 per night.<sup>97</sup> During that time, he claimed full per diems for meals on every day of the trip, as well as reimbursement for £33.00 per day (\$57.75) for the hotel's "Executive Lounge" package.<sup>98</sup> His accommodation, per diems, taxi expenses while in London, and claims for personal vehicle use to and from Victoria airport totalled \$3,623.40. That amount does not include the approximately \$450 spent on the journeys to and from Heathrow airport referred to at para. 114(c) above or the more than \$10,000 spent on flights.

165. Also on that trip, Mr. James expensed \$1,034.92 in purchases from various gift shops, other stores, and the post office. Items purchased include several mugs, luxury chocolates, logoed stationary, cufflinks, aprons, satirical books about Brexit, and other items of memorabilia.<sup>99</sup>

166. Paras. 47 - 48 above refers to a request made by Mr. James to be appointed a "Commissioner" by the Speaker for the purpose of his work updating the textbook. By letter dated April 25, 2018, the Speaker made that appointment.

167. The statutory authority to appoint Commissioners is derived from the *Legislative Procedure Review Act*. Relevant sections of that Act include:

**1** (1) The Speaker of the Legislative Assembly is appointed, and subject to this Act continues to act as a special commissioner to investigate, inquire into and, if considered advisable, make recommendations to the Legislative Assembly respecting the usages, customs, practices and procedures of the Legislative Assembly, the rules, Standing Orders and the conduct of business of the Legislative Assembly, the Parliaments of the United Kingdom and of Canada and other legislative bodies the Speaker considers advisable.

(...)

**2** (1) The Speaker may appoint persons, including members of the Legislative Assembly, as the Speaker considers advisable to advise or assist the Speaker in carrying out powers and duties under this Act.

(...)

**4** (1) A person appointed under section 2 must be paid a reasonable allowance for each day during which the person is carrying out duties under this Act as certified and approved by the Speaker.

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<sup>97</sup> Exhibit 19 at pp. 1-12.

<sup>98</sup> See para. 106(d) above.

<sup>99</sup> Exhibit 19 at pp. 13-17.

(2) The Speaker and persons appointed under section 2 must be paid necessary and reasonable travelling and living expenses incurred in carrying out their duties under this Act on approval of the expenses by the Comptroller General.

(...)

**5** The Speaker may employ counsel, clerks, reporters and employees required to carry out the Speaker's powers and duties under this Act.

168. Given that Mr. James apparently required no additional authority to make a trip to England in February 2018 for the ostensible purpose of holding meetings to discuss the update to the textbook, it is unclear why it was necessary for him to be appointed a "Commissioner" as part of carrying out this work. It is difficult to escape the inference that this may have been an attempt to secure additional remuneration under the statutory references cited above, or to support claims for reimbursement for expenses ostensibly incurred in relation to that project.

## **I. EDUCATION-RELATED BENEFITS**

169. The Legislative Assembly has a policy concerning the reimbursement of education related expenses.<sup>100</sup> In brief, the amount of an employee's tuition which the Legislative Assembly will reimburse correlates to how essential the qualification is considered to be to the operations of the Legislative Assembly. Policy 6-1 sets out three levels of importance, and the corresponding percentage of costs to be covered by the Legislative Assembly for each, as follows:

### 3. Assistance Level Guidelines

3.1 Knowledge and skills are essential and urgent for the Assembly, and recruitment is virtually impossible.

One hundred percent (100%) salary, tuition, travel and accommodation.  
This is considered to be an employer-directed work assignment.

3.2 Knowledge and skills very desirable to the Assembly, will significantly assist the Assembly in achieving its goals, and where recruitment may be very difficult.

Percentage of pay, 50% tuition, percentage of accommodation and/or travel.

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<sup>100</sup> Exhibit 15 at pp. 11-13.



3.3 Knowledge and skills may be of value to the employer but the primary benefit will accrue to the employee.

Fifty percent (50%) tuition.

170. The documents reviewed disclose that several individuals have claimed education-related expenses including tuition. Since 2016, Mr. Lenz has been enrolled at Simon Fraser University in the Terrorism, Risk and Security Studies Professional Maser's Programme and, as of July 19, 2017, he had been reimbursed \$10,472.70 in tuition expenses.<sup>101</sup> An additional \$9,687.00 has been provided as reimbursement to Mr. Lenz for tuition fees and \$3,198.00 has been provided as reimbursement for a class called "Criminology 730 (Terrorism and Civil Liberties: Canadian, Comparative and International Perspectives)".<sup>102</sup> The Master's programme is an on-line program, so the latter class seems to be the basis for many of the trips to Vancouver that Mr. Lenz makes and results in overnight hotel expenses in Richmond, all of which were billed to the Legislature as set out at para. 125 above.

171. This represents on-going, full funding of Mr. Lenz's education expenses for the Master's programme as well as additional course. It is not apparent how such a course is "essential and urgent for the Assembly" so as to warrant Mr. Lenz receiving full compensation for his education expenses. It is also not clear how the expenses were approved and it is recommended that a further review of the policy and past decisions be made to ensure that appropriate reimbursement is provided.

**J. WOOD SPLITTER AND TRAILER**

172. As noted above, the Speaker received information that a wood-splitter and work/tools trailer were purchased by the Legislative Assembly, but never arrived on site and instead were delivered directly to Mr. James' personal residence where they have allegedly been used by Mr. James and Mr. Lenz for their own purposes.

173. Documentary corroboration of the report is found in the receipts for these pieces of equipment for \$3,200.91 and \$10,029.60 respectively, and receipts for their insurance with ICBC.<sup>103</sup> On the receipt for the wood splitter it is indicated that it was to be picked up by "Craig". On December 4, 2018, Mr. James' lawyers, Fasken Martineau, wrote to the Speaker and advised that Mr. James wished to deliver the wood-splitter to

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<sup>101</sup> Exhibit 20.

<sup>102</sup> Exhibit 20.

<sup>103</sup> Exhibit 21 at pp. 1-6.

the Legislative Assembly.<sup>104</sup> The RCMP intervened and now have possession of the wood splitter. The trailer was not at the Legislative Precinct as of November 20, 2018, but the Speaker understands from Facilities and Maintenance staff that it subsequently materialized, parked in the parking lot, without any indication of how it arrived there.

174. From the Speaker's inquiries, he understands the justification for the Legislative Assembly purchasing the wood-splitter was that if a crisis situation befell the Legislative Assembly and if in the course of that crisis a tree fell on the Legislature grounds, there could be a need to split the tree up for firewood for use at the Legislature. The Speaker has difficulty accepting that rationale, as the scenario seems very remote, and in any event – even assuming external Emergency Services were not able to attend and handle this scenario – a chainsaw and axe would appear to suffice.<sup>105</sup>

175. Nevertheless, if there was any justification for its purchase, it is difficult to understand how it assisted the Legislative Assembly to have the machine at Mr. James' house, being used for his personal purposes.

176. The letter from Mr. James' lawyers asserted that Mr. James was "holding" the wood splitter, "as he had been advised by Legislative Facility Services that there was no room to store that item within the Legislative Precinct." That supposed rationale is surprising given the size of the Legislative Precinct, and if there was indeed no space to store it, then that begs the question of why it was purchased. The matter of the wood splitter and trailer ought to be enquired into further from an employment and workplace conduct perspective.

#### **K. ALLEGED TRUCKLOAD OF ALCOHOL**

177. The reports that the Speaker received regarding a large amount of alcohol being loaded into the Clerk's truck and perhaps taken to Mr. Barisoff's house in the Okanagan warrants investigation. The alcohol was apparently left over from a conference or event that the Clerk hosted and was placed in a basement vault from which it was later loaded into the truck.

178. The Speaker has asked for receipts relating to the purchase of conference alcohol in the 2012-2013 time period and has received expense claims that show purchases of \$8,789.84 were made from BC Liquor Stores or Distribution Branches, but

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<sup>104</sup> Exhibit 21 at pp. 7-8.

<sup>105</sup> Which the Legislative Assembly already appears to own: on March 8, 2018, "chainsaw protective equipment" was purchased through the Legislative Facility Services for \$625.72. See Exhibit 21 at pp. 9-10.

whether those are connected to the reports of the alcohol allegedly taken by Mr. James is unknown.<sup>106</sup>

179. Although multiple witnesses had independent (though not first-hand) awareness of the allegation about removal of alcohol, to date, the information has not been corroborated through a first-hand source. However, it is a serious allegation that warrants investigation, particularly as other Legislative Assembly employees are said to have assisted with the loading of Mr. James' truck.

#### **L. WORLD BANK TRAVEL EXPENSES**

180. A similarly vague, but serious matter concerns information that the Speaker has received to the effect that Mr. James may have travelled on World Bank business and expensed the costs of such travel to the Legislative Assembly.

181. A number of references to Mr. James' work with the World Bank appear online. For example, an October 18, 2010 *Vancouver Sun* article quoted correspondence between John Horgan and Mr. James, who was then acting Chief Electoral Officer.<sup>107</sup> In that correspondence, Mr. James referred to his work as a "consultant" to the World Bank having "taken him to places such as Bhutan, Bangladesh, Sri Lanka, India and El Salvador, to name a few." He added, "engaging parliamentarians from Afghanistan, Iran, Iraq, Nepal, Ghana, Nigeria, Liberia, the Caribbean and Central America as well as those from the countries listed above has been a privilege and very rewarding."

182. Similarly, a report published sometime after April 2016 contained a biographical sketch of Mr. James as follows:

Over the past few years, Craig has been a consultant to the World Bank, World Bank Institute and the Commonwealth Parliamentary Association participating in seminars in countries such as El Salvador, Trinidad and Tobago, St. Lucia, Bangladesh, Ghana, Sri Lanka, Pakistan, Bhutan, India, Nigeria, Malaysia, South Africa, Malta, Thailand, Kenya and others from the training of parliamentary staff to designing parliamentary committees systems to parliamentary financial oversight including the oversight of Parliament, itself.... (emphasis added)<sup>108</sup>

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<sup>106</sup> Exhibit 22.

<sup>107</sup> Exhibit 31.

<sup>108</sup> CPA UK, CPA Canada & Parliament of Guyana Capacity Building Programme In partnership with the British High Commission, Final Report of the Workshop for Committee Chairs and Clerks 4-6

183. A former employee of the Legislative Assembly with first-hand knowledge of how these trips were accounted for recalled that at times, Mr. James would pay for these trips using Legislative Assembly resources, following which the World Bank would at least in some instances reimburse some or all of the expenses to the Legislative Assembly. Although it is reassuring that expenses may have been reimbursed, the issue of why they were initially paid for by the Legislative Assembly (if they were) requires further investigation.

184. If full or partial expenses for these trips were billed to the Legislative Assembly (whether or not such expenses were reimbursed), it will be documented and verifiable. Whether Mr. James took vacation days for this work, or counted those trips as work days, will similarly be verifiable. It is a matter that warrants further enquiry, particularly in light of the observations of the Speaker as to the manner in which travel expenses have been booked in the last two years. Moreover, it raises the question of whether these endeavors were appropriately part of the Clerk's duties for which he was already receiving full-time compensation, and if so, how these endeavors were approved and reported.

185. In addition, Mr. James' work for the World Bank may have been in contravention of the Legislative Assembly policy on Employee Standards of Conduct relating to outside offices or employment.<sup>109</sup> That policy states, in relevant part, that employees of the Legislative Assembly may engage in remunerative employment with another carry on business or receive remuneration from public funds for activities outside their position provided that:

- (i) it does not interfere with the performance of their duties as an employee of the Legislative Assembly;
- (...)
- (iii) an advantage is not derived from status as a Legislative Assembly employee;
- (...)
- (v) it does not involve the use of Legislative Assembly premises, services, equipment or supplies to which they have access by virtue of their employment with the Legislative Assembly.

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April, Parliament of Guyana; Available at [https://www.uk-cpa.org/media/2297/guy16-committee-workshop\\_final-report.pdf](https://www.uk-cpa.org/media/2297/guy16-committee-workshop_final-report.pdf)

<sup>109</sup> Exhibit 15 at pp. 1-4.

186. There appears to be a real possibility that Mr. James' work with the World Bank may have breached some or all of the provisions above. For example, even if his work was not compensated by the World Bank, based on the number of countries he reportedly visited as part of that role and the comparatively few vacation days that he took from the Legislative Assembly, a question arises as to whether some of his World Bank work was done on days for which he was notionally "at work" at the Legislative Assembly. If so, the Legislative Assembly was effectively paying Mr. James on those days, to work for the World Bank. Moreover, given that Mr. James is not known to have any formal training or qualification in financial management or economics, it is difficult to see how his role with the World Bank could be anything other than "derived from [his] status as a Legislative Assembly employee". Finally, to the extent any administrative or support staff allocated time or resources to facilitating Mr. James' work for the World Bank, this could potentially be in breach of the policy above as well.

**M. THE BLACK ROD PROJECT**

187. Another matter that warrants enquiry is the expenses related to the project that Mr. Lenz and Mr. James undertook in organizing a "Black Rod" for the Legislative Assembly to commemorate the Queen's Diamond Jubilee.<sup>110</sup> Having a representative of the Queen give some kind of ceremonial blessing to a part of the rod or rings that were associated with it was apparently used as a justification for Mr. James and Mr. Lenz to travel to London with others. Former employees who were aware of the expenses associated with the trip and its purpose raised questions about the magnitude of those costs. The Speaker is of the view that if the trip was similar to the trips that he experienced in 2017 and 2018 with Mr. James and Mr. Lenz, the costs relating to that trip, and the Black Rod in general, ought to be the subject of further review.

**N. ALLEGATIONS OF INTERFERENCE IN INVESTIGATION OF EXPENSES**

188. As detailed above, the Speaker received information that Mr. Lenz was initially keenly interested in investigating a reliable report from a witness about improper expense recordings by an MLA. What the witness was saying was improper could be seen in the reports that were publicly available, wherein taxi fares to and from the HeliJet to the MLA's home appeared to be claimed in addition to reimbursement for mileage for the same trip.<sup>111</sup> It would seem obvious that some basic inquiries would need to be made with the Member before one could discount the witness' concerns.

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<sup>110</sup> <https://www.leg.bc.ca/content-peo/Learning-Resources/The%20Black%20Rod%20Fact%20Sheet%20-%20English.pdf>

<sup>111</sup> Exhibit 23.

However, within an hour and a half of the meeting with the witness having concluded, the Sergeant-at-Arms and his Deputy conveyed to Mr. Mullen that there was nothing to be concerned about.

189. Meanwhile, at about the same time, the Clerk told the Speaker that he had intervened and shut down the investigation on the basis that if such an investigation into the expense claims occurred, "we would all wear it". Consistent with that statement, the witness was informed by the Deputy Sergeant-at-Arms that his claims of impropriety were not substantiated, but the Deputy could not provide a rational scenario as to how the expense claims that were submitted could otherwise be justified.

190. The Speaker then received information that on June 20, 2018, Mr. James was in Vancouver discussing with Geoff Plant how to "rein in" Mr. Lenz so that he would not embark on investigations in the future. As noted above at paras. 67 and 112 (*table*), Mr. James travelled to Vancouver on that day to meet with Mr. Plant and Paul Barbeau.

191. The Speaker is of the view that any officer who takes steps to summarily quash an investigation at a preliminary stage, with an express justification of protecting expense recording patterns and insulating them from review, is a serious matter that warrants a proper enquiry.

192. It is also noteworthy that, shortly before he was terminated, the witness referred to above was recognized in the House by one of the Members he worked for, and complimented in glowing terms for his work. In light of that praise, it is particularly difficult to understand the reason for his sudden termination shortly thereafter.

## PART 4 – GENERAL OR SYSTEMIC MATTERS OF CONCERN

### A. INTRODUCTION

193. The section above sets out an illustrative series of examples of specific instances which have caused concern. The Speaker has, for the most part, only had access to expenses documentation from April 2017 through December 2018. What may have occurred in the period prior to April 2017 has yet to be determined. In any event, if the above-noted concerns are substantiated, they raise important questions about how the organizational and reporting structures of the Legislative Assembly allowed such conduct to occur unchecked. These broader systemic and organizational issues require further review to identify areas where there may be room for strengthening of institutional oversight and improvements to reporting structures.

### B. APPOINTMENT PROCESS FOR SENIOR OFFICERS AND THEIR “PERMANENT” NATURE

194. The positions of Clerk of the House and Sergeant-at-Arms, as so-called Permanent Officers of the House, are appointed through a vote of the Legislative Assembly.<sup>112</sup>

195. Mr. Lenz became Sergeant-at-Arms following a competitive process. Mr. James’ appointment to Clerk of the House did not involve a competitive process. According to statements made to the Speaker by long-serving Legislative Assembly staff, and the House proceedings documented in Hansard, both the fact of Mr. James’ appointment, and the speed with which it occurred, were surprising.

196. Prior to June 2010, Mr. James was the fourth-ranking Clerk. The understanding of multiple Legislative Assembly staff, as described to the Speaker, was that Ian Izard, then the Law Clerk, would have been the natural choice to replace then-Clerk of the House George MacMinn, and that Mr. Izard was believed to have expected the same.

197. In June 2010, Mr. James was appointed Acting Chief Electoral Officer at Elections BC. The timing of that appointment is also unusual:

- (a) In February 2010, the then-Chief Electoral Officer, Harry Neufeld, approved a petition launched by former Premier Bill Vander Zalm which

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<sup>112</sup> Section 39, *Constitution Act*, RSBC 1996, Ch. 66. While the roles are not “permanent” in the strictest sense, i.e. a job for life which *cannot* be taken away (such as a U.S. Supreme Court justice, for example), nor are the roles subject to fixed terms or regular reviews, and may only be rescinded by further vote of the House.

sought to force a referendum in relation to the BC Government's proposed Harmonized Sales Tax.<sup>113</sup>

- (b) Mr. Neufeld's first term as Chief Electoral Officer was scheduled to end on June 5, 2010. In April 2010, Mr. Neufeld was advised by then-Speaker Bill Barisoff that he would not be appointed to a second term.<sup>114</sup>
- (c) Under B.C.'s *Elections Act*, the Legislative Assembly must recommend to the Lieutenant Governor a candidate for appointment as Chief Electoral Officer, based on the unanimous recommendation of a special Committee of the Legislative Assembly.<sup>115</sup>
- (d) On May 6, 2010, a committee was formed to consider replacements for Chief Electoral Officer.<sup>116</sup> The committee met once before the vacancy arose, on May 18, 2010.<sup>117</sup> It made no recommendation prior to June 5, 2010 as to a new candidate. That is unsurprising, because the process to advertise for the vacancy, consider and interview applicants, and appoint a replacement ultimately took nearly a year.
- (e) When the office of Chief Electoral Officer becomes vacant when the Legislative Assembly is sitting, but no recommendation is made by the Legislative Assembly pursuant to relevant sections of the *Elections Act* before the end of the session, the Government may appoint an acting Chief Electoral Officer.<sup>118</sup>
- (f) The timing of the announcement that Mr. Neufeld would not be reappointed was potentially significant, because it ensured that the Legislature would break for the summer recess without approving a

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<sup>113</sup> <https://www.cbc.ca/news/canada/british-columbia/former-b-c-premier-s-anti-hst-petition-gets-go-ahead-1.927961>

<sup>114</sup> <https://www.straight.com/article-326248/vancouver/bc-chief-electoral-officer-harry-neufeld-leave-office-antihst-petitioners-concerned>

<sup>115</sup> Section 4, *Elections Act*, RSBC 1996 Ch. 106.

<sup>116</sup> <https://www.leg.bc.ca/Pages/BCLASS-Legacy.aspx#%2Fcontent%2Flegacy%2Fweb%2Fcmt%2F39thparl%2Fsession-2%2Fceo%2F5-39-2-12-2.htm>

<sup>117</sup> <https://www.leg.bc.ca/Pages/BCLASS-Legacy.aspx#%2Fcontent%2Flegacy%2Fweb%2Fcmt%2F39thparl%2Fsession-2%2Fceo%2Fhansard%2FMin-CEO-39-2-12-2010-MAY-18.htm>

<sup>118</sup> Section 9(2)(c), *Elections Act*, RSBC 1996, Ch.106.



replacement for Mr. Neufeld, and there would be a need for an interim acting Chief Electoral Officer.

- (g) Whereas ordinarily that may have been of little consequence, Summer 2010 promised to present a number of important decisions for the Chief Electoral Officer. In particular, the deadline to submit signatures on Mr. Vander Zalm's anti-HST petition to Elections B.C. was July 5, 2010. After that, under the *Recall and Initiative Act*, the Chief Electoral Officer would have 42 days to verify whether or not the petition contained the signatures of at least ten per cent of voters in each of the 85 ridings across British Columbia.
- (h) On June 3, 2010, Mr. James was appointed to the acting role. That position came with a salary equal to that of the Chief Judge of the Provincial Court, representing an approximately 35 per cent increase to Mr. James' base pay. It is clear from statements made in the House that Members of the Official Opposition considered the decision to appoint Mr. James not to have been adequately discussed in advance.<sup>119</sup>
- (i) Over the next year, Mr. James made a number of significant decisions as acting Chief Electoral Officer. These included a decision not to forward the petition calling for a referendum to the relevant select standing committee, pending the outcome of a court challenge;<sup>120</sup> firing the long-serving deputy Chief Electoral Officer Linda Johnston (who had previously been among the officials issuing a ruling unfavourable to the Government about permissible HST advertising, although it was denied that this was an influence in the decision to terminate her employment<sup>121</sup>); and ruling that a petition to recall a Liberal MLA could not be accepted because it exceeded a 200-word limit, on the basis that "MLA" counted as five words, and "HST" counted as three words.<sup>122</sup>

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<sup>119</sup> Exhibit 24 at pp. 1-8.

<sup>120</sup> <https://www.scribd.com/doc/35754455/ElectionsBC-Letter>

<sup>121</sup> <https://www.theglobeandmail.com/news/british-columbia/senior-elections-bc-official-let-go-after-28-years/article4388983/>

<sup>122</sup> A copy of Mr. James' letter setting out that decision is available at <http://fighthst.com/media/RecallApplicationResponseNov242010.pdf>. A revised version of the recall petition was subsequently approved approximately a week later.

198. On June 2, 2011, Mr. James (who was still serving as acting Chief Electoral Officer) was appointed Clerk of the House, effective September 1, 2011. Statements made in the House by Members of the Official Opposition indicate that they considered the decision to be rushed, and questioned why the appointment was not subject to a competition.<sup>123</sup>

199. None of the above is intended to suggest that Mr. James' appointment was necessarily tainted by political bias. However:

- (a) Multiple witnesses (including Mr. Lenz, as noted above at para. 21) have informed the Speaker of their view that Mr. James was aligned with the BC Liberals (with some suggesting that Mr. James' unexpected appointment as Clerk of the House was connected to his "doing a job" for the Government as acting Chief Electoral Officer); and
- (b) The occurrence and timing of relevant events, including the decision not to reappoint the incumbent, the failure to initiate the process of finding a replacement soon enough to avoid the need for an interim, the minimal notice given of the Government's choice for that role; the decisions made by Mr. James while acting as interim; and the resulting appointment (also rushed) of Mr. James to a role well above his previous position, may all be seen to give the *appearance* of possible partisanship at play.

200. It is essential that the Clerk of the House is, and is seen to be, a non-partisan role. That principle is echoed in the job description for the role, which states, "*It is critical that the Clerk of the House has the full support of all political parties and must be seen as being even-handed and not connected to any political party.*"<sup>124</sup> This Preliminary Report cannot, and does not purport to, draw conclusions as to whether Mr. James *is* partisan. However, it is undoubtedly the case that he is seen to be by some people, and appearances are important.

201. Part of that impression has no doubt arisen because of the circumstances around Mr. James' appointment to the role of Clerk. One of the recommendations of this Preliminary Report is that a full review consider whether there would be merit in making changes to the appointment process for Permanent Officers, including (for example) imposing a requirement that those roles be subject to an open competition process, or appointed by the Legislative Assembly based on the unanimous recommendation of a special committee with membership from all parties.

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<sup>123</sup> Exhibit 24 at pp. 9-14.

<sup>124</sup> Exhibit 26.

**C. OVERSIGHT AND ACCOUNTABILITY OF SENIOR OFFICERS**

202. The authority that underlies the respective roles of the Speaker, Clerk and Sergeant-at-Arms is a patchwork of history and custom, Standing Orders of the Legislative Assembly, provisions in the *Constitution Act*, the *Legislative Management Committee Act* and the *Legislative Assembly Procedure Review Act*, and the policies of the Legislative Assembly.

203. In practice, there appears to be too much power and too little accountability in the Office of the Clerk. While the Office of the Speaker and LAMC are intended to provide a level of oversight and accountability, LAMC does not have a supervisory or disciplinary relationship with the Clerk in relation to the administration of the Legislative Assembly in the way that, for example, a well-functioning company would have as between a CEO reporting to a Board of Directors or a well-functioning municipal police board would have with their Chief of Police. Moreover, it appears historically to have been the case that LAMC rarely met; as early as then-Auditor General John Doyle's report in 2012, strengthening LAMC oversight was identified as an area of urgent requirement in the interests of good governance.<sup>125</sup>

204. Similarly, the relationship between the Speaker and the Clerk does not have standard hallmarks of reporting and accountability because, while the Speaker is given supervisory jurisdiction over the Clerk's "direction and control of officers and clerks employed in the offices of the Legislative Assembly",<sup>126</sup> the Speaker does not have disciplinary or termination powers over the Clerk and Sergeant-at-Arms. As noted at para. 194 above, only the Legislative Assembly as a whole has that power. There is an apparent tension between the Speaker's notional supervision of the Clerk, but also, in practice, the Speaker's heavy reliance on the Clerk for assistance with the business of managing House proceedings, interparliamentary relations, and to provide general guidance as to what constitutes standard practice at the Legislative Assembly. Where the Clerk presents something to a new Speaker as innocuous, it may be difficult for a Speaker to know otherwise. Moreover, if the Speaker's ability to provide objective oversight is compromised by a close friendship with the Clerk, then it potentially creates a situation where there is no effective scrutiny of the most powerful employee of the organization.

205. The Legislative Assembly's "Standards of Conduct" policy states,

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<sup>125</sup> Exhibit 17 at pp. 5-20.

<sup>126</sup> Standing Order 92.

“Where an employee has reason to believe that there exists... a waste of public funds or assets... the employee shall bring the matter to the attention of the Clerk, either directly or through normal Legislative Assembly channels...”<sup>127</sup>

206. However, no guidance is given as to what is to be done where employees suspect a waste of public funds or assets *by* the Clerk. A consistent theme in the reports of witnesses interviewed was that Mr. James’ spending habits were both widely known and widely considered to be inappropriate by employees at the Legislative Assembly. Yet equally consistent was the sense among current and former employees that anyone who raised those concerns, either with the Clerk directly, or through other channels, was at risk of termination or of being otherwise forced to leave their positions.

207. Effective oversight is further compromised by the absence of other senior executives, or long-serving employees with sufficient institutional experience to understand what conduct is and is not considered acceptable. One witness pointed to the reduction in full-time clerks between 2011 and the present as illustrative of this phenomenon. Prior to 2011, as noted above, full-time clerks included the Clerk of the House, the Clerk Assistant, the Law Clerk, and the Clerk of Committees (as well as, in later years, Ms. Ryan-Lloyd as Deputy Clerk of Committees). However, by 2012, that number had dwindled to two: Mr. James, as Clerk of the House, and Ms. Ryan-Lloyd, as Deputy Clerk and Clerk of Committees. Additional staffing requirements have been addressed by hiring temporary short-term “contract” clerks during sessions of the Legislature. The witness explained that while this practice ensures that necessary tasks are performed, the absence of other full-time clerks also represented a “removal of competition” and a “consolidation of power” by the Clerk of the House.

208. Finally, the Clerk has a significant ability to change the professional circumstances of nearly all employees under him. Evidence referred to above illustrates Mr. James acting to give his subordinates increases in pay, or (in Mr. Lenz’s case) contriving to obtain him additional vacation. Former employees described a pattern of Mr. James providing rewards and benefits to those who did not take issue with his conduct, and a clear impression that subordinates who did risked losing their job.

#### **D. SALARY AND BENEFITS FOR SENIOR OFFICERS**

209. The section above illustrates the significant influence that superior officers in the Legislative Assembly’s hierarchy have over subordinates. That influence extends to salary arrangements for other senior officers.

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<sup>127</sup> Exhibit 15 at p. 3.

210. For many years, the Clerk's base salary has been pegged to that of the Chief Judge of the Provincial Court of British Columbia. Whether or not that is proper is beyond the scope of this exercise: however, in a variety of ways as illustrated above, the Clerk's total compensation tends to be significantly higher than this amount. For the financial year ending March 31, 2018, the Chief Judge's annual salary was \$293,440.45.<sup>128</sup> For the same period, the salary disclosed for the Clerk was \$347,090.00.<sup>129</sup> In the year prior to that, the Chief Judge's annual salary was \$282,565.90. For the same period, the salary disclosed for the Clerk was \$307,892.00.<sup>130</sup>

211. The salary for other clerks has historically been calculated based on a percentage of the Clerk of the House's salary. However, it appears that the Clerk of the House has a wide discretion to modify that percentage as he or she deems necessary. For example:

- (a) In 2003, Mr. James was Clerk of Committees. In a letter dated October 8, 2003, the then-Clerk of the House George MacMinn wrote to Comptroller General Peter Bray:

*Please consider this letter as your authority and direction to alter the salaries of the following clerks in the manner set out below:*

...

*Craig James from 57.15% of the Clerk's salary to 64.15% producing a gross salary of \$109,857.*

*These adjustments are to be effective from October 1, 2003.*<sup>131</sup>

- (b) 18 months later, in a letter dated February 28, 2005 from Mr. MacMinn to Mr. Bray, Mr. MacMinn wrote,

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<sup>128</sup> <https://www2.gov.bc.ca/gov/content/careers-myhr/all-employees/pay-benefits/salaries/salarylookuptool/legal-judiciary/chief-judge>

<sup>129</sup> <https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/government-finances/public-accounts/2017-18/pa-2017-18-legislative-assembly-payments.pdf>

<sup>130</sup> <https://www2.gov.bc.ca/assets/gov/british-columbians-our-governments/government-finances/public-accounts/2016-17/pa-2016-17-legislative-assembly-payments.pdf>

<sup>131</sup> Exhibit 16 at p. 8.

*Please consider this letter as your authority and direction to alter the salary of the Clerk of Committees and Clerk Assistant as follows:*

*Craig James from 64.15% of the Clerk's salary for 70.83%, producing a gross salary of \$121,296. This adjustment is to be effective March 1, 2005 (...)<sup>132</sup>*

212. It therefore appears that, over an 18-month period between October 1, 2003 and March 1, 2005, Mr. MacMinn authorized salary increases for Mr. James of 14% in relation to the Clerk of the House's salary – which itself was already going up, in line with the Chief Judge's salary.

213. No evidence has been provided which would suggest the supporting rationale for these increases, or that they were the result of anything other than a decision of the Clerk, either unilaterally, or in conjunction with the approval of the Speaker. In that respect, see the discussion in relation to the 1984 Retirement Allowance, at paras. 138 - 153 above, as well as the comments in then-Auditor General John Doyle's 2013 Report referring to the Speaker's "level of autonomy in determining the terms of any compensation program" available to Senior Officers.<sup>133</sup>

214. Similarly, the Clerk of the House appears to have significant influence over the salaries of officers in other departments. A history of Mr. Lenz's compensation arrangements is illustrative:

- (a) On December 12, 2008, Mr. Lenz was appointed Sergeant-at-Arms. His salary was \$93,015.13 annually, or 96% of a Legislative Assembly "Director" level at the time.<sup>134</sup>
- (b) On November 24, 2009, Mr. MacMinn wrote to inform Mr. Lenz that as of December 13, 2009 (the one-year anniversary of his appointment), his salary would be adjusted to 100% of the "Director" level.<sup>135</sup>
- (c) In early 2010, Mr. Lenz requested that Mr. MacMinn review the role of Sergeant-at-Arms compared with other Canadian counterparts, with a view to receiving a pay rise. On March 4, 2010, Mr. MacMinn responded

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<sup>132</sup> Exhibit 16 at p. 9.

<sup>133</sup> Exhibit 17 at p.18.

<sup>134</sup> Exhibit 25 at p. 1.

<sup>135</sup> Exhibit 25 at p. 2.

stating that a review had been conducted, which concluded that there was no basis for a salary adjustment for the Sergeant-at-Arms.<sup>136</sup>

- (d) On September 21, 2010, Mr. Lenz once again wrote to Mr. MacMinn, this time asking for a 35% salary increase over the next three years, and that the Sergeant-at-Arms position be pegged as a percentage of the salary of the Clerk of the House (and, by extension, the Chief Judge's) for future pay increases. In October 2010, that request was rejected.<sup>137</sup>
- (e) After Mr. James became Clerk of the House, Mr. Lenz's salary was fixed at 50.25% of the Clerk's salary. On April 30, 2013, Mr. James wrote to Mr. Lenz referring to "three separate and independent reviews of the position of Sergeant-at-Arms during the past year," and "significant additional duties being assigned to the position," and a "re-organization of the Legislative Assembly placing this position at the executive team level."<sup>138</sup> Copies of the three "independent reviews" of the position were not included among the documents made available for the purposes of this review.
- (f) In 2014, Mr. James cited the "attempted bombing of the Legislature in 2013" and the allegedly "evolving nature of the [Sergeant-at-Arms] position" to justify authorizing a 15% "temporary pay rise" for Mr. Lenz.<sup>139</sup>
- (g) In 2015, that temporary pay rise became permanent. This was allegedly based on an independent review of the Sergeant-at-Arms position; however, a copy of any resulting report has not been provided.<sup>140</sup>
- (h) On November 9, 2017, Mr. James drafted the letter which was subsequently signed by the Speaker, authorizing an increase in Mr. Lenz's pay, to 66% of the Clerk's salary, plus life insurance in the amount of three times his annual salary, a vehicle allowance, and an increase in the number of his vacation days.<sup>141</sup>

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<sup>136</sup> Exhibit 25 at p. 3.

<sup>137</sup> Exhibit 25 at p. 4.

<sup>138</sup> Exhibit 25 at p. 5.

<sup>139</sup> Exhibit 25 at p. 6.

<sup>140</sup> Exhibit 25 at p. 7.

<sup>141</sup> Exhibit 25 at p. 9.

215. The Clerk also appears to have the ability to influence other officers' vacation allotment. The Legislative Assembly has a number of Human Resources policies which are ultimately subject to the oversight and approval of the Clerk. The policy relating to vacation allots an annual number of days to employees based on length of tenure.<sup>142</sup> Through 2016, Mr. Lenz appears to have been allotted vacation days in line with that policy:<sup>143</sup>

<b>"Vacation Year"</b>	<b># of Days</b>
1 <sup>st</sup> to 7 <sup>th</sup> (2006-2012)	20
8 <sup>th</sup> (2013)	22
9 <sup>th</sup> (2014)	23
10 <sup>th</sup> (2015)	25
11 <sup>th</sup> (2016)	25

216. In 2017, however, Mr. Lenz's holiday ceased to align with that policy, as follows:<sup>144</sup>

<b>"Vacation Year"</b>	<b>Policy Entitlement</b>	<b>Gary Lenz Entitlement</b>
12 <sup>th</sup> (2017)	26 days	35 days
13 <sup>th</sup> (2018)	27 days	35 days

217. Those changes appear to have been the result of interventions by Mr. James:

- (a) On June 26, 2017, Mr. James approved an increase to Mr. Lenz's annual leave entitlement by an additional five days (i.e. to 30 days per year).<sup>145</sup>
- (b) On November 9, 2017, Mr. James requested that the Speaker sign the letter referred to above (increasing Mr. Lenz's salary to 66% of the Clerk's salary). That letter also increased Mr. Lenz's annual holiday to 35 days per year. The Speaker was not aware or advised that Mr. Lenz had recently received a five-day increase in his annual vacation allotment, five months earlier.<sup>146</sup>

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<sup>142</sup> Exhibit 15 at pp. 5-10.

<sup>143</sup> Exhibit 1 at pp. 1-8.

<sup>144</sup> Exhibit 1 at pp. 1-8.

<sup>145</sup> Exhibit 25 at p. 9.

<sup>146</sup> Exhibit 25 at p. 8.



218. Although the June 26, 2017 letter justified the increase on the basis that the request was “consistent with the leave provisions for BC Government Deputy Ministers and Associate Deputy Ministers,” it is not clear why the Sergeant-at-Arms would be entitled to comparable treatment, or what prompted this reassessment.

219. As noted at para. 136 above, Mr. James signed off on Mr. Lenz’s requests to “roll over” unused vacation days into the next year, and to receive regular payouts in lieu of vacation. It is therefore highly probable that Mr. James understood that the increases in vacation days for Mr. Lenz would ultimately take the form of increased annual cash bonuses.

**E. TERMINATION OF EMPLOYEES**

*“I still feel disheartened over losing my job there because there’s no reason I should have been let go.... when I worked there, I felt I was walking in the footsteps of history, that I was actually part of history, that I was part of something in British Columbia, and something that is really, really important.”*

- Former employee (terminated 2013)

220. The Speaker has heard from a number of former employees who said they were terminated without cause and without any notice of any problems with their work or apparent reason why they were being fired. Witnesses spoke of other employees who they understood were similarly treated, and of those who were seen to have raised concerns with expenses or financial management and were terminated. It appears that this practice of sudden without-cause terminations has fostered a culture of insecurity among staff in at least some of the departments at the Legislative Assembly that if employees spoke up about concerns or fell out of favour they could lose their jobs without warning. As a result, staff have stayed quiet about what they have observed. This dynamic is unhealthy for the employees and for the organization as a whole. It should be noted that in a number of cases, these without-cause terminations had no identifiable connection to the Clerk or the Sergeant-at-Arms: this is a broader issue that appears to be modelled at the top of the hierarchy, but extends elsewhere in the Legislative Assembly.

221. Some of the people who were fired were long-time employees who had built lives and families around their jobs at the Legislative Assembly. Had they been notified that there was a need for improvement in some respect or other, they say they would have worked hard to meet whatever standard was imposed. Many loved their jobs at the Legislature and expressed a sense of pride in being a part of such a venerable and important public institution.

222. The personal impacts of an abrupt termination on an employee are often significant, undermining their confidence and sense of self-worth. A public employer should be setting a standard for respectful workplace practices and appropriate practices in relation to supervision and discipline. This is particularly important at the Legislative Assembly where the employees are not unionized and where the unique nature of the institution is such that the employees are not protected by the provisions of the *Employment Standards Act*, the *Human Rights Code* or oversight by the Ombudsperson's Office. Unnecessary terminations in which terminated employees receive pay in lieu of notice is also a costly practice for an employer: severance payments, recruiting expenses, training costs, lost productivity and loss of institutional knowledge are costs needlessly incurred.

223. The Speaker recognizes that in employment matters, there are often two sides to the story of an employee's departure and he has not had an opportunity to hear from both sides or to review the employee files of the former employees he has heard from. However, there is enough of a pattern to the accounts of people who shared their stories with the Speaker, and reports from former managers about how termination decisions were made, to support a strong impression that this is a matter that requires examination. Accordingly, a thorough review of the Legislative Assembly's practices and policies around discipline and terminations ought to be conducted, and appropriate protections for employees implemented.

224. In addition, whether intentionally fostered or not, a workplace culture where employees are fearful of speaking up leaves an organization vulnerable to having a lack of effective oversight. In addition to implementing appropriate employment protections, it is also essential that mechanisms, including effective whistleblowing provisions, are put in place to allow for concerns from employees to be voiced and received by those responsible for addressing such matters.

225. Among the documents reviewed are certain human resources policies which suggest that, at least in theory, a number of protections do exist to prevent some of the issues highlighted above, such as annual performance reviews. However, the reports of former employees suggest that such policies are more honoured in the breach than in the observance, with the policies "on the books" not reflecting practical reality "on the ground." As part of the review called for above, consideration should be given to establishing a programme to assess and monitor over time the extent to which such policies are followed.

## PART 5 – RECOMMENDATIONS

The Speaker recommends:

1. that the Legislative Assembly Management Committee authorize, or recommend to the Legislative Assembly, a full workplace review into the matters raised in this Preliminary Report (the “Workplace Review”). The Workplace Review:

- (a) shall be transparent, thorough, and with a mandate to report its findings and recommendations publicly;
- (b) shall be conducted by a party independent of the Legislative Assembly, but which shall deliver its final report to the Legislative Assembly (the “Special Investigator”);<sup>147</sup>
- (c) shall have terms of reference which shall include, without limitation:
  - (i) assessing the allegations concerning financial misappropriation and other improper conduct by the Clerk of the House and the Sergeant-at-Arms arising from this Preliminary Report;
  - (ii) reviewing relevant Legislative Assembly workplace policies and governance frameworks, including but not limited to those relating to hiring practices, remuneration of employees and officers, performance reviews, discipline and terminations, and reporting structures and oversight;
  - (iii) considering whether expense claims by Permanent Officers of the Legislative Assembly ought to be disclosed publicly online, similar to MLA’s expenses;
  - (iv) considering detailed job descriptions for the Permanent Officers with guidelines as to what are appropriate travel purposes and why those purposes require in-person attendance;
  - (v) considering whether there is merit in changing the appointment process for Permanent Officers of the Legislative Assembly, including (for example) imposing a requirement that those roles be subject to an open competition process, or that they be appointed

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<sup>147</sup> It may be considered appropriate for the Workplace Review to be conducted by (as examples and without limitation) a distinguished former judge, or a Special Commissioner appointed by the Speaker under section 1(2)(k) of the *Legislative Procedure Review Act* R.S.B.C. 1996, Ch. 261.

by the Legislative Assembly based on the unanimous recommendation of a special committee with membership from all parties; and

- (vi) in any event, flexibility for the party leading the Workplace Review to investigate as-yet-unidentified issues which may come to light as the Workplace Review progresses;

2. that the Legislative Assembly Management Committee instruct legal counsel experienced in employment law to consider whether, in light of the matters disclosed in this Preliminary Report, it is appropriate for the Clerk of the House and the Sergeant-at-Arms to remain on administrative leave with pay; and if not, to make alternative recommendations.